HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Environment and Sustainable Development

ENVI • NUMBER 114 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Tuesday, May 22, 2018

Chair

Mrs. Deborah Schulte

Standing Committee on Environment and Sustainable Development

Tuesday, May 22, 2018

● (1115)

[*English*]

The Chair (Mrs. Deborah Schulte (King—Vaughan, Lib.)): Good morning, everyone. Welcome back.

We are again doing clause-by-clause on Bill C-69, an act to enact the impact assessment act and the Canadian energy regulator act, to amend the Navigation Protection Act and to make consequential amendments to other acts.

We have assisting us today, from the Department of Natural Resources, Jeff Labonté, Assistant Deputy Minister, Major Projects Management Office; and Terence Hubbard, Director General, Petroleum Resources Branch.

From the Canadian Environmental Assessment Agency, we have Christine Loth-Bown, Vice-President, Policy Development Sector; and Brent Parker, Director, Legislative and Regulatory Affairs Division. Welcome.

From the Department of Transport, we have Nancy Harris, Executive Director, Regulatory Stewardship and Aboriginal Affairs.

Thank you very much for being with us today.

Mr. Rochon, thank you very much for being with us from the Department of Justice.

As I had mentioned to committee members, in my zeal on Thursday to assist with amendments and subamendments I had stepped out of bounds and had moved to clause 6. We moved a LIB-76 amendment. I would like to ask the committee's agreement to reverse that decision. I should not be moving on anything outside of the clause we're studying right now, which is clause 1. If we could reverse the decision on the LIB-76 subamendment and the LIB-76 amendment as amended, I would very much appreciate that.

Some hon. members: Agreed.

The Chair: Thank you very much.

At the end of Thursday, the last one was amendment NDP-40.

(On clause 1)

The Chair: Ms. Duncan.

Ms. Linda Duncan (Edmonton Strathcona, NDP): I have an amendment that needs to come before the next one. I have prepared it in English and French. I gave one to the Liberals and one to the Conservatives.

The Chair: We're checking with the legislative clerk to see whether this is appropriate for this area. It doesn't have a number.

Ms. Linda Duncan: I would call it NDP-41.1.

The Chair: Why doesn't the clerk let everyone know his thoughts on this?

Mr. Olivier Champagne (Legislative Clerk, House of Commons): If you look at your bill, you see the amendment would go under "Decision-Making". It wouldn't amend line 22, which is under "Rules in Case of Termination".

Ms. Linda Duncan: After line 22, it should say...and just before "Decision-Making".

Mr. Olivier Champagne: If you look at LIB-39, you'll notice it's really specific to—

Ms. Linda Duncan: It's LIB-43.

Mr. Olivier Champagne: We're at LIB-39 right now.

Ms. Linda Duncan: Yes, I know, but LIB-39 comes after where I'm putting this. I would put this in right after the heading "Decision-Making".

● (1120)

Mr. Olivier Champagne: Exactly. And LIB-39 is relevant to the part of the bill that is above "Decision-Making".

Ms. Linda Duncan: It's above "Decision-Making"? Okay.

Mr. Olivier Champagne: LIB-39 adds new proposed subsection 60(3), right after proposed subsection 60(2).

Ms. Linda Duncan: Oh, okay. That's fine. I'm happy to go second.

The Chair: All right.

We'll go back to where we were. LIB-39 would add a new proposed subsection to proposed section 60, "Subject to section 119".

Shall the amendment carry?

Hon. Ed Fast (Abbotsford, CPC): I would like a recorded vote.

(Amendment agreed to: yeas 6; nays 2 [See *Minutes of Proceedings*])

The Chair: We have PV-54.1, and then we'll get to Linda's.

Ms. Linda Duncan: Yes. Ms. May's is first.

The Chair: Ms. May.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): This amendment was proposed in the evidence of the Canadian Environmental Law Association.

The existing proposed subsection 59(1) talks about the assessment by a review agency, and continues on with the effects in the report. The report sets out what are, in the agency's opinion, the effects of the designated project.

This adds new proposed subsections 59.1(1), (2), and (3), which break out what the minister says must be done with the report. There's an independent review of their operation to be undertaken. Then the minister must cause a report to be laid before the House within two years after the day on which this section comes into force. As well, if an act of Parliament amends it based on a review, the next report is to be tabled within two years.

The effect of all this, Madam Chair, is to enact the recommendation of the expert panel on environmental assessment and to establish the agency as the single quasi-judicial authority that conducts the assessments and makes decisions under the act on behalf of the federal government.

I appreciate the creativity of the Canadian Environmental Law Association in coming up with this. It's an extremely elegant way of ensuring that Bill C-69 meets the aspirations of the thousands of people, as well as the expert panel, who worked so hard on preparing the expert panel on the impact assessment report to the federal government.

This is an extremely important amendment.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: Next we have Ms. Duncan's amendment.

Ms. Linda Duncan: It is NDP-41.1.

The Chair: No, it would be NDP-40.1, because you need to do it before NDP-41, right?

Do you want to give your explanation again, giving that you're walking it on the floor?

Ms. Linda Duncan: No, this actually comes after....

Okay: NDP-40.1; whatever you say.

This proposes adding, right after the heading "Decision-Making", a definition for "adaptive management". This was pointed out, I think to everyone, by Professor Olszynski of the University of Calgary when he testified before us. He spoke to science and the importance of adaptive management.

Presumably in response to that, Mr. Bossio actually amended LIB-43, adding in the term "adaptive management". We haven't gotten to LIB-43 yet, but as has been pointed out, adaptive management isn't defined anywhere in the act. Now, I've noted that the minister, in drafting her bill, from time to time adds in definitions where they relate to just that part of the bill. This is the part of the bill that deals with adaptive management, so the suggestion is that the logical place to put it would be at the beginning of that whole part of the bill. That would be on page 38, between "Decision-Making" and "Minister's decision".

I provided the recommended definition to everyone. I don't think I need to read it out. The recommendation is that a uniform definition is required. There seem to be a lot of differences of opinion between proponents, consultants, and departments on understanding what that is. It's not a bad idea, in terms of providing greater certainty, for this to be what the government says "adaptive management" is for the purposes of this act.

I'm supporting Mr. Bossio's later amendment.

● (1125)

Mr. William Amos (Pontiac, Lib.): Madam Chair, I would like to speak this, just quickly.

I know that a number of us are supportive of this in principle. I have spoken with Professor Olszynski on the topic. In general, I think it would be a good thing for adaptive management to be incorporated as a concept. However, it should be coming in the definitions section, not at the particular point that's suggested through this amendment.

I would also like to ensure that we have Justice's thoughts on the appropriateness of the location of the definition. If it's helpful, I would suggest maybe allowing Justice to give their early thoughts now, but I know that there are subject matter experts who will have specific expertise on the issue of adaptive management, so perhaps they could come back to us.

It would require unanimous consent, I think, to get this into the definitions section, and I don't know if that would be forthcoming from the opposite members.

The Chair: Mr. Fast, do you want to speak first?

Hon. Ed Fast: There is a proposal now to add "adaptive management", which is another process. The definition itself, if it's adopted, references a new structured and iterative process. Every time we add another process, we make it more and more and more difficult for Canadian resources to be developed in a sustainable way. It's just more and more red tape and delay. These kinds of steps are not helpful.

Madam Chair, I think we should hear from our Justice officials on, first, where this definition should go, and second, whether the definition actually does justice to the term that Mr. Bossio has used. Then we can make an informed choice on whether we would support this.

The Chair: I think what Ms. Duncan is trying to do is put in a definition, since there would be an amendment that quotes it. I also understand about getting an opinion on where it should go. It probably should go in the definitions section. The problem is whether we'll get unanimous consent from the committee to put it in definitions. If we got that, then I think it probably should go in definitions, but we may not get that. I think this is to try to accommodate not being able to go back.

Let's see what advice we have from our experts.

Mr. Jean-Sébastien Rochon (Counsel, Department of Justice): Usually when a definition is inserted at a midway point in a statute, it relates specifically to one part. It tends to have a distinction from how the word might be interpreted elsewhere. Unless we mean for "adaptive management" to have a different definition for this section of the bill, or only for specific sections, it would be preferable to put it under proposed section 2, where the other definitions in the bill are found.

The Chair: I think Mr. Fast asked if there were any complications with the actual definition. I just don't know if there is any expertise here to explain that.

Ms. Christine Loth-Bown (Vice-President, Policy Development Sector, Canadian Environmental Assessment Agency): Madam Chair, we don't have a copy of the amendment or the proposed definition.

The Chair: That's a problem.

I'm wondering if I can have the unanimous consent of the committee to be able to come back and insert this in here once we get the information and the experts have a chance to have a look at it.

Can I have the unanimous consent of committee? No.

We'll have to get that right now.

What about unanimous consent of the committee to put it properly in the process, in the definitions section? No.

● (1130)

Ms. Linda Duncan: We don't need unanimous consent for me to move my motion.

The Chair: No, I understand that.

Ms. Linda Duncan: This is the only place in the bill the term is used. There is no conflict with the rest of the bill.

The Chair: I get that too.

You need a copy, so let's quickly get you a copy.

I'll suspend for five minutes.

● ——————————— (Pause) ———————————

●

● (1135)

The Chair: We're going to resume.

I understand I can get unanimous consent from the committee to come back to the definition after we move on. We're going to reserve an opportunity to come back and give the officials a chance to look at that definition and seeing if there are any issues with it. They'll let me know when we're ready to come back. I think we've got about 15 to 20 minutes.

Thank you very much to the committee for that.

The next one up will be NDP-41. The ruling if adopted is NDP-42 and LIB-40 cannot be moved because there will be a line conflict.

Linda.

Ms. Linda Duncan: I am going to suggest not moving NDP-41 and instead moving NDP-42.

The essence of NDP-42 is that throughout the act, there's deep concern by the public that the factors, which is what got people convinced that the government was willing to consider the aspects of sustainable development.... By the time you move forward in the bill, most of those factors disappear. The essence of this is that the proposed section 22 factors must be taken into account in these decisions. It goes through every section and does the same thing and requires the minister and the cabinet to consider the same proposed section 22 factors in making any decision on public interests. Just have them all read together; that's the essence of this amendment.

The Chair: Thank you very much for that explanation and clarity. If adopted, PV-55 to PV-62, NDP-43, NDP-49, LIB-41, and CPC-6 cannot be moved because there will be a line conflict. And GPQ-1 and PV-63 will also be moot because they're in the same—

Ms. Linda Duncan: Okay, I'm taking out NDP-43 anyway.

The Chair: Let's do this one first.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we move to PV-55. Ms. May.

Ms. Elizabeth May: This is one where the existing wording is odd. There may be a subsequent amendment where the government is attempting to clean this up. As it's currently drafted, the minister will, "determine if the adverse effects within federal jurisdiction—and the adverse direct or incidental effects—that are indicated in the report are, in light of the factors...in the public interest". I don't think any government would decide that an adverse effect was in the public interest. I think what they meant to say is what my amendment says; that where there are adverse effects—this is on a recommendation of the Canadian Environmental Law Association—"whether these effects are justified, in light of the factors referred to in section 63, because the project is in the public interest".

I'd like to think that governments didn't decide that adverse effects were in the public interest. It's the project they're interested in, in whether the adverse effects are justified.

● (1140)

The Chair: Mr. Amos.

Mr. William Amos: Madam Chair, the members on this side of the table appreciate the intent, but LIB-41 gets at the core of what we want to do to achieve amendments on this aspect, so we'll leave it at that.

The Chair: Okay, fair enough. Thank you for those comments.

Hon. Ed Fast: Let's have a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to move to amendment LIB-40, please.

It's making an amendment at line 38 on page 38. Rather than "referral is posted on the Internet site", you have it say "referral and the reasons for it are posted on the Internet site."

Mr. Aldag.

Mr. John Aldag (Cloverdale—Langley City, Lib.): Simply, we feel that this will enhance transparency, and the reasons then will be communicated to Canadians. That's the essential reason for this amendment.

The Chair: There is a call for a recorded vote.

(Amendment agreed to: yeas 9 ; nays 0 [See *Minutes of Proceedings*])

The Chair: Thank you very much.

Kumbaya, we're doing very well.

Next up is amendment PV-56. Ms. May.

Ms. Elizabeth May: This is to the same effect as my previous amendment, Madam Chair, although it appears in a different place.

Looking at page 39, in the referral to the Governor in Council there's that same anomaly of the government's deciding that adverse effects are in the public interest rather than deciding that the adverse effects are justified because of an affirmative finding by cabinet that a project is in the public interest.

Cabinet should actually go through based on evidence, and it would be good if they were directed to do it.

The Chair: All right, thank you very much. That's clear.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We move on to amendment NDP-43.

Ms. Linda Duncan: I'm not moving that one.

The Chair: We're now on amendment PV-57.

Ms. Elizabeth May: This is the same effort to ensure that the minister's determination in respect of a project and the Governor in Council's determination in respect to a designated project must include considerations, etc.

I'm inserting at lines 17 to 18 that, found within the factors in proposed section 63, an affirmative finding that a project is in the public interest shall be related to whether the adverse effects are justified.

● (1145)

The Chair: Shall the amendment carry?

Hon. Ed Fast: Let's have a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're moving on to amendment PV-58.

Ms. Elizabeth May: This recommendation came to committee through West Coast Environmental Law, among others. As the bill currently reads, both the minister's determination and the Governor in Council's subsequent determination that a project should proceed and that there are factors in the public interest.... The current language says that the determination of both the minister and the Governor in Council "must include a consideration of the following factors".

To clarify that the minister and cabinet are required to determine whether the project is in the public interest and what their consideration is of factors, it's not merely that they must include a consideration, but that the determination—and this is the effect of my amendment—"must be based on the following factors", or not really based on, but must include a consideration.

Ms. Linda Duncan: You're not saying "must" because that's my amendment. Yours says "are to be".

Ms. Elizabeth May: Oh, that's yours, right. Mine says "are to be". Sorry about that, Linda. They "are to be based on" the following factors:

I think that's the inference of consideration, but it doesn't say that the minister must conclude that the factors, once considered, provide a basis on which you can find that the project is in the public interest.

The Chair: Mr. Fast.

Hon. Ed Fast: This is actually a substantive change. It's moving from consideration to basing a decision on certain factors.

Obviously, Ms. May does want to slow down and halt any development of resource projects in Canada. This would be the stake into the heart of our development industry when it comes to mining, when it comes to oil and gas development. I don't know how we, as members of Parliament, can support this kind of an amendment. This is just going too far.

The Chair: Ms. Duncan.

Ms. Linda Duncan: I would just comment that if the wording as it is right now—"must include consideration of"—does not mean that they genuinely must take those into account.... It seems Mr. Fast is suggesting that it's completely discretionary. I would suggest that we vote on that basis. That is the way it is being interpreted by some parties.

The Chair: Yes, I heard that.

If this is adopted, NDP-44, PV-59, PV-60, NDP-45, and LIB-41 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 8, yeas 1 [See *Minutes of Proceedings*])

The Chair: We are now on NDP-44.

Ms. Linda Duncan: I don't think there's any point in bringing that forward. It's essentially the same, just more demonstrative.

The Chair: Next is PV-59.

Ms. Elizabeth May: I'm not going to move this one because I've moved PV-58. I know I'm not allowed to not move an amendment. They're all deemed to have been moved by me because of the status of the motion the committee passed, but it's up to you. I would be standing down on this one if I had such power.

The Chair: Our practice is to allow you to withdraw it if you want to withdraw it.

Ms. Elizabeth May: If that's the practice then I will withdraw it.

Technically—and I really do mind the technicalities of this—the motions passed by every committee in this Parliament mean that today I am in clause-by-clause on three bills at the same time, and I don't have the right to withdraw my own amendments, but I appreciate the practice, and I will withdraw my amendment.

The Chair: We try to accommodate in this committee.

● (1150)

Ms. Elizabeth May: You shouldn't have passed that motion if you wanted to accommodate, but never mind.

The Chair: Next up is PV-60.

Ms. Elizabeth May: This is putting forward the point that you don't consider factors unless the consideration of those factors leads you to base your decision on those factors.

The Chair: If this is adopted, NDP-45 and LIB-41 cannot be moved because there will be a line conflict.

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: There's a new version of LIB-41 being distributed. I'll give you a few minutes to quickly look at it. LIB-43.1 will be affected by it. You're also getting a copy of that one.

If it's adopted, then PV-65 cannot be moved, because there will be a line conflict.

They will be taken together because we're going to do a vote, and it will apply to 43.1.

Ms. Linda Duncan: Are you going to move it, or is it considered moved already? I have a question to ask about it.

The Chair: We can let Mr. Amos explain, please.

Mr. William Amos: We've heard from stakeholders on all points on the spectrum—industry, indigenous groups, environmental groups, academics—and they've sought a tightening of the method by which factors are going to be considered, both in terms of the impact assessment reporting and also in terms of how decisions will be made by the executive.

This is language that we worked hard at ensuring was clear and provided that certainty to industry, but at the same time provided greater clarity as well that it wouldn't just be a consideration of specific factors and that it would actually be based on those very specific and identified factors in the legislation.

The Chair: If you look in the bill, you'll see that LIB-41 has the same kind of wording and the detailed reasons. That's why they apply to each other.

Ms. Duncan.

Ms. Linda Duncan: I think it's still limiting. I don't understand how this is an improvement. I think, in fact, you're limiting how they will base their decision on the report by considering far fewer factors than the 22 factors that were considered in doing the report. Is that still the message, that neither the cabinet nor the minister have to consider all 22 factors that the agency or panel had to consider?

Mr. William Amos: With respect, I would disagree. The language would clearly enable that the consideration would be based on the report, and that report contains all of the relevant factors to be considered.

What it really ensures is that there is a focus of decision-making in this context in proposed section 63 around the ministerial determination; it ensures it would be focused on the factors considered in the report.

● (1155)

Ms. Linda Duncan: In fact, it says the opposite. It says that it will be based on the report with respect...with a consideration to a much limited list of factors. It must be based on the report and consideration of far fewer factors.

The Chair: There's a difference of opinion, but it stands.

Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote, please.

(Amendment agreed to: yeas 5 ; nays 3 [See *Minutes of Proceedings*])

The Chair: That applied to 43.1 as well.

Next up is CPC-6. If adopted, PV-62 cannot be moved because there will be a line conflict.

Mr. Fast.

Hon. Ed Fast: The proposal is that Bill C-69, in clause 1, be amended:

(a) by deleting lines 25 and 26 on page 39.

(b) by deleting lines 39 to 42 on page 39.

The justification for this is the government needs to clearly define each of these concepts and the criteria that must be met. Since they have not, we are suggesting to remove paragraphs (a) and (b) from proposed section 63.

The sustainability and climate change tests in the assessment portion of the impact assessment process represent risk to proponents as they add uncertainty. The whole goal of this legislation was to improve certainty and this is going in the wrong direction. Policy issues like climate change and sustainability should be deliberated on during the early planning phase and measured against any relevant and available strategic and/or regional assessments to ensure the broad policy issues do not impact the scientific and fact-based review.

The Chair: Mr. Amos.

Mr. William Amos: Madam Chair, I simply wanted to say that I think it's a sad day when factors to be considered in an impact assessment related to sustainability and climate change are proposed for elimination in a bill. Canadians want to see projects move forward and want to be confident that the processes that allow such projects to move forward are going to be robust. By stripping the notion of sustainability and our climate change commitments out of that consideration, it would really eviscerate the bill.

I just wanted to remark on that. I don't think Canadians would support this either.

The Chair: Mr. Fast.

Hon. Ed Fast: I wouldn't characterize this, in any way, as an evisceration of the bill. We believe the bill is quite problematic. Sustainability means different things to different people. It could be interpreted as not permitting any net contribution to GHG emissions, which is not a reasonable threshold to disallow a project from moving forward. The bottom line is, step by step, this legislation and the amendments coming forward from the government make it more and more difficult for proponents of projects to get their projects approved even if those projects are merited. That is a sad statement about the state of affairs in Canada right now, where capital and investment are fleeing this country in amounts that we have not seen, certainly in my lifetime.

This is not about eliminating considerations; it's about making sure we don't put additional roadblocks in the way of proper development of our resources in a way that is environmentally defensible and sustainable.

● (1200)

The Chair: Just to be clear for everybody, there is a definition of sustainability in the bill, which is helpful to make it clear to people what is meant. I understand your points, and there's definitely a difference of opinion around the table.

Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote, please.

(Amendment negatived: nays 6; yeas 3)

The Chair: We move on to PV-62.

Ms. Elizabeth May: Again, we're still on page 39, going to lines 41 to 42 under factors in the public interest. We would insert:

> Canada's ability to meet its national and international obligations and commitments in respect of the environment, climate change and biodiversity.

Ms. Linda Duncan: I have a point of order.

Has LIB-42 been removed?

The Chair: Sorry, yes, it was withdrawn. My apologies, it was my fault. I didn't call that out.

Ms. Elizabeth May: Again, factors to be considered in weighing the public interest would include our ability to meet our national and international obligations and commitments in respect of environment, climate change, and biodiversity. Those are really significant factors that I'm sure the government would want to weigh, but we want to specify them under proposed section 63.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 7; yeas 1)

The Chair: I shouldn't allow votes from the back of the room. They have to be at the table, and she's still at the back.

Sorry about that. If we need a pause, we'll take a pause, but we're not going to pause yet.

Next up is Madame Pauzé.

[*Translation*]

Ms. Monique Pauzé (Repentigny, GPQ): Thank you, Madam Chair.

Our proposed amendment adds, after line 42 on page 39, some elements to consider when making decisions.

If you agree, I will introduce amendments GPQ-2 and GPQ-1 at the same time. In fact, amendment GPQ-2 has to do with approving those elements, but, before being approved, they will have to be assessed.

[*English*]

The Chair: Sure.

[*Translation*]

Ms. Monique Pauzé: Okay. Thank you very much, Madam Chair.

Let's refer back to April 14, when Jean-Marc Fournier, the Quebec minister responsible for Canadian relations, sent a letter with a very eloquent title: *Le fédéral doit respecter les lois provinciales*. I have copies of the letter here, if anyone is interested in reading it.

On our end, we confirm that there is consensus on that. Quebec has the best assessment process in North America. We are of the opinion that it is important to listen to Quebec when it asks that the process be followed. My amendments are along those lines. They have been submitted by the Centre québécois du droit de l'environnement (CQDE), the only organization that was invited to give a presentation here.

Our laws and regulations reflect the will of the people. At a previous meeting, Mr. Fast said that Canadians expected the legislation passed to be enforced. The same applies to provincial legislation, including that of Quebec. We feel that, instead of increasing Ottawa's powers, they should be brought closer to the people, since they are the ones who will deal with the environmental impacts or the impacts of the proposed bills.

Environmentally speaking, that's an advantage. Because bills must comply with both federal and provincial legislation, protection is increased. This is the highest standard that would apply. In Quebec, we have the best laws. Setting them aside to enforce federal laws would reduce environmental protection.

In conclusion, some members here are representing Quebec, and I would be very disappointed to see them vote against my amendments. That really would mean that they are acting against their own people.

I therefore invite the members from Quebec and all voting members to vote in favour of my two amendments.

● (1205)

[*English*]

The Chair: Mr. Amos.

[*Translation*]

Mr. William Amos: I would be pleased to speak to the two proposed amendments.

Having worked for a decade with the Centre québécois du droit de l'environnement and as an accredited environmental lawyer in Quebec for many years, I am very familiar with the BAPE system in Quebec. This process is not perfect, and neither was the federal environmental assessment process in the past.

What is important is that Quebec's jurisdiction be respected. This bill will respect the jurisdiction. It provides for everything required in terms of overlapping responsibilities. Environmental protection is an area where responsibilities overlap. It is imperative that the proposed legislation provide a mechanism for the different levels of government to work in partnership. I am fully convinced that the legislation will enable and encourage this collaboration. In my opinion, to suggest that Bill C-69 will not have that effect is tantamount to playing politics and trying to pit Quebeckers against the rest of Canada.

[*English*]

The Chair: Ms. Duncan.

Remember, we're going to keep this debate really short, because—

Ms. Linda Duncan: I have a right to speak to it.

The Chair: Well, you do. Not five minutes; we're way past the five minutes.

Go ahead.

Ms. Linda Duncan: I have concerns with the provision, but they're different. I think that it would be ultra vires in this bill to assign to the federal government the authority to decide if provincial laws are respected. I understand the intent, but I don't think the way it's worded would be allowed under federal law. I think that both of them would be deemed to be ultra vires, because the federal government should not be the authority that will decide that provincial laws are complied with.

I think the best resolution to this is to always have joint reviews. That would be the preference.

However, I understand where the member is going. It certainly would make sense if.... For example, a province can have a higher standard than the federal government, but not a lower standard for a toxin. That is a good message. If they're going to make a decision based on toxins, they should be based on the provincial law.

I don't think it makes sense in the way that this is drafted, because I think you're saying that the federal government would decide whether or not the provincial law had been respected. I think that would be ultra vires of the federal government.

Shall we ask the experts?

The Chair: Sure, we'll go to the Department of Justice on that.

Mr. Jean-Sébastien Rochon: First off, I would have to say I'm here to explain the government's position as well as how the bill will operate in practice. The legal advice of the Department of Justice is given to the government as a whole.

[*Translation*]

Upon careful reading of the amendment, I see that the measure in question would be only one of the elements considered by the minister or by the decision-making authority. It would just be something to consider, not an obligation. It would be a simple part of the assessment.

The legislation very clearly applies to effects under federal jurisdiction. I will leave it at that.

[*English*]

Ms. Christine Loth-Bown: To add to that, the design of the legislation is to ensure co-operation with other jurisdictions. The goal would be to move towards one project and one assessment.

● (1210)

The Chair: Okay, thank you very much for that.

I think it's time to vote.

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 9; yeas 0 [See *Minutes of Proceedings*])

The Chair: That did not carry, and that applied for both GPQ-1 and GPQ-2.

We'll move on to PV-63. Ms. May.

Ms. Elizabeth May: I think this is a really important amendment. All the amendments are important, but this one I think is an oversight.

I'm adding a proposed paragraph (f) to the list of factors to be considered—and this was a recommendation that some committee members will remember was from the Wildlife Conservation Society Canada —that the minister's determination of factors should include, where it's actually occurred, any outcomes from relevant regional and strategic assessments.

When you look at this, it's a bare-bones amendment. It refers you to proposed sections 92, 93, or 95. Those are the sections that deal with regional and strategic assessments.

Obviously if there has been a determination and outcome from a regional strategic assessment that the cumulative effects of, say, project x will be to tip an ecosystem into cascading population collapses, the minister can't ignore that factor. We ought to list that as one of the factors to be considered.

The Chair: Ms. Duncan.

Ms. Linda Duncan: Absolutely, it should be included. Otherwise, what's the point of doing the regional and strategic assessments?

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are now on PV-64. Ms. May.

Ms. Elizabeth May: This is again to make sure that when cabinet and the minister make a decision, it's not the adverse effects that they find in the public interest, but that they find that the adverse effects are justified because a project is in the public interest.

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're on to LIB-43. Mr. Aldag.

Mr. John Aldag: This one is under the "Mitigation measures and follow-up program", taking the implementation of the follow-up program and, as noted, "if the Minister considers it appropriate, an adaptive management plan."

In this one, we heard from stakeholders that the follow-up for some projects should include an adaptive management plan. This can serve as a clear safeguard, so the amendment responds to stakeholder comments.

On the question about definition—as we've had the discussion earlier—I would say that "adaptive management" could be defined in policy if we're unable to do it. Where we'll leave it for now is that's where it could be defined.

The Chair: Is the department ready to come back with anything on adaptive management for us?

Ms. Christine Loth-Bown: Yes, Madam Chair. Mr. Parker is prepared to speak to that.

Mr. Brent Parker (Director, Legislative and Regulatory Affairs Division, Canadian Environmental Assessment Agency): Thanks for giving us a few minutes to think it through and talk it over.

I am going to start by kind of contextualizing it before speaking to the specific amendment. Adaptive management has been part of the environmental assessment for a very long time. In our experience, having a uniform definition as to how to manage that has been helpful. We do that currently through policy.

Under the existing act, CEAA, 2012, adaptive management is a concept we use to ensure that mitigation measures that are proposed are achieving the objectives that have been set. It allows the department or the agency to engage with the proponent and identify what changes might happen to those mitigation measures over time when we see the results from those.

That's something we're doing through policy. We have a policy definition for that, and it helps to reduce uncertainty. It's somewhat different from the definition proposed here. I'd say that, in concept, it is similar. In terms of the amendment as drafted, there are certainly some unknowns in it. "Adaptive management" in the motion notes that it's a structured, iterative process. I think there is some uncertainty around what that means.

Looking at LIB-43, it uses the notion of "adaptive management plan" versus process, so there is a difference there.

I think that Justice might be able to speak to the placement of a definition, but I would flag that the Liberal amendment notes "adaptive management" in one section, in proposed subsection 64 (4), which is under our "follow-up program". That is where we would be using that process and that tool. Our plan would be to use policy to support a definition around "adaptive management" so that we can achieve the objectives that I highlighted.

● (1215)

The Chair: Mr. Fast.

Hon. Ed Fast: I have a question for our officials. You said that adaptive management plans are already being used under the current process. Is that correct?

Mr. Brent Parker: That's correct.

Hon. Ed Fast: The term adaptive management is not used in current legislation. Is that correct?

Mr. Brent Parker: That's correct.

Hon. Ed Fast: Why, then, is it necessary to include it in this legislation, if the impact assessment community understands what that means and has been functioning quite well without any fixed definition or including it in legislation?

Mr. Brent Parker: I'd say that our experience with adaptive management has been variable, in terms of success. There's not a legislative definition of that. Part of the benefit of having that referenced in the act would note that there is the possibility when we come out with a decision statement to specifically have "adaptive management measures" in there. Currently, we can do that, as a policy approach, but there's a backstop if it's noted as "adaptive management plan" within the legislation itself.

The Chair: Go ahead, Ms. Duncan.

Ms. Linda Duncan: I will reiterate this. The call for using, adding in, and defining this term are one and the same. That's based on research that says that empirical work in Canada and the United States indicates that neither proponents, consultants, nor federal departments and agencies have a shared understanding of what the term means. Despite supposed policy considerations, it's not being done properly.

By providing a definition, the suggestion is that you go beyond the ad hoc—in other words, making it up every time. When you require this, you actually have a clear definition, so that everybody is on the same base. There's no reason why the definition couldn't be added in, at the beginning of proposed section 64. It could say, "for the purpose of this section", which has happened throughout the bill, where we have added in definitions.

The Chair: Are you suggesting that we move—?

Ms. Linda Duncan: I'm suggesting that we put the definition in that I had recommended, where I thought it made more sense, but it could be added in, just before proposed section 64. It would say, "For the purposes of this section, this definition of adaptive management shall apply." Without a definition, I don't think we're adding anything to the bill. Nobody knows what we're adding.

The Chair: Mr. Amos.

Mr. William Amos: We've been around this mulberry bush once. I think we need a little more time to get a substantive analysis of the definition, as proposed by MP Duncan. Presently, we have in front of us a motion, which doesn't require that definition, and we can move forward with this motion regardless. In order to get a definition, we're going to need to review it on the substance and get unanimous consent to incorporate it.

● (1220)

The Chair: I did get consent to go back. We'll just leave that stand-down, then, in terms of the definition, and we'll come back to that, after there's been some more consideration. However, we can move on this particular amendment, which is LIB-43.

Ms. Duncan.

Ms. Linda Duncan: Will there be there no consideration of adaptive management during the impact assessment review? Is it only going to be considered later in decision-making?

Mr. Brent Parker: Maybe I can speak to that part.

In order for us to get to the conditions in the decision statement, we're relying on the impact assessment to do that. Whether it's adaptive management plan or the other conditions, all of that information has to be assessed for us, in order to develop those. It certainly happens at the outset and then feeds all the way through until—

Ms. Linda Duncan: Well, there is no discussion of adaptive management during the impact assessment. That's my concern.

Mr. Brent Parker: There are a lot of different measures within proposed section 22 that would need adaptive management and the requirements associated with those would be part of the policy approaches laid out.

The Chair: We're going to vote on LIB-43.

Hon. Ed Fast: Can we have a recorded vote?

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

The Chair: Now, we're on to NDP-45. Ms. Duncan.

Ms. Linda Duncan: All of these are related.

The basic intent is that the decision statement must include an evidence-based justification for any trade-offs that were made between or among the the public interest considerations in proposed section 63. It requires that there can't be transparency and accountability without expressly requiring a reasonably detailed explanation of how and why the trade-offs were made. Also, the reasons for the decision must provide a cogent, evidence-based account of why, for example, a project was approved despite the likelihood of adverse environmental effects or impacts on indigenous rights and interests. As well, it allows for amendments to the decision statement in response to unforeseen changes.

One thing I would add is that is in proposed paragraph (a.1) it would say that "the Minister disagrees with" any of "the conclusions", and the same under proposed paragraph 65(1)(e), which is after line 11 on page 41, "terms and conditions of" any "approval".

The Chair: Those are two amendments to the amendment, adding the words "any of" after the (a.1) second line, "disagrees with any of the conclusions", and then in paragraph (e) you have, in the fourth line down, "terms and conditions of any approval".

Correct?

Ms. Linda Duncan: I will reiterate that paragraph (e) clearly delineates that responsibility will be assigned to any "appropriate federal authority".

The Chair: That's not in the change, though. You're just identifying that.

Ms. Linda Duncan: No, I'm just reiterating.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Next, amendment PV-65 conflicts with LIB-41, so that one is out. We are now on NDP-46. Ms. Duncan.

Ms. Linda Duncan: This one is very straightforward. It comes from a number of northern Alberta first nations. It essentially is saying that it requires that the consultations with affected indigenous peoples be completed before the decision statement is issued. It increases certainty by ensuring that Canada has fulfilled its obligations under both section 35 of the Constitution and the UNDRIP.

Very clearly, it is simply adding in the condition that they won't actually make the final decision until they have completed the consultations with any indigenous peoples that may be impacted by that decision, consistent with what the government has committed to.

● (1225)

The Chair: Fair enough. Thank you.

Shall amendment NDP-46 carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are now on LIB-44. Mr. Aldag.

Mr. John Aldag: In this case, this one is put forward as a safeguard. It's intended to balance the ministerial discretion that is contained in the bill. This is something that we heard about, and I believe this increases transparency. That's the spirit of this motion. It provides that counterbalance to ministerial discretion that's provided within this bill.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: Moving on, we now have CPC-7. Mr. Fast.

Hon. Ed Fast: This is an amendment to effect change provisions dealing with projects regulated by the Canadian Nuclear Safety Commission, specifically to permit designated projects related to uranium mines and mills to access the agency assessment provisions of the act, including the suite of provisions related to co-operation with provinces and indigenous governing bodies.

This amendment does this by adding an exception to the decision statement, considered to be part of licence under the Nuclear Safety and Control Act section of the decision statement portion of the act, for uranium mines and mills from the power of the minister to designate conditions in relation to a project that includes activities regulated under the Nuclear Safety and Control Act through a decision statement.

As Bill C-69 is currently written, in the proposed "Limitation" subsection of the agreement to establish a review panel, the minister must not enter into an agreement with any jurisdiction that has powers and duties in relation to environmentally assessing a designated project if that designated project includes physical activities that are regulated under the Nuclear Safety and Control Act or the Canadian energy regulator act.

This amendment makes a language change to clarify that in the proposed "Obligation to refer" section of the act, the minister must refer physical activities at a nuclear facility that are regulated under the act or the Canadian energy regulator act to a review panel. It also adds an exception to the proposed "Obligation to refer" section of the act, stating that physical activities at a uranium mine or mill are not included in the minister's obligation to refer physical activities at a nuclear facility that are regulated under the Nuclear Safety and Control Act or the Canadian energy regulator act to a review panel.

Finally, the rationale is that uranium mines and mills, like all mines and mills, are subject to provincial regulatory and permitting frameworks, but they're also regulated by the Canadian Nuclear Safety Commission. Bill C-69 would preclude co-operation and preclude agency assessment for all designated projects that are regulated by the CNSC, treating all such projects as exclusively in federal jurisdiction. There is no justification for this differential treatment as the complexity and impacts of uranium mines and mills are not in any different category from those of other mines and mills, and co-operative approaches are just as valuable.

● (1230)

The Chair: I think that's clear.

If we adopt this, then CPC-7.1 cannot be moved, because there will be a line conflict.

Mr. Ed Fast: I would like a recorded vote, please.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We move on to CPC-7.1, which is similar.

Hon. Ed Fast: For the same reason as we presented before, Madam Chair, there's no reason uranium mines should be treated differently.

The Chair: It's "in relation"—it's a very minor difference from the other.

Hon. Ed Fast: This was a request from the Mining Association of Canada, who, you may recall, appeared before us. They specifically asked for this amendment. Those details are in their brief. I have a copy of their brief if anyone wants to see it.

The Chair: Shall the amendment carry?

Mr. Ed Fast: I would like a recorded vote, please.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We move on to LIB-45. Mr. Fisher.

Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.): This is a housekeeping amendment that will clarify that enforcement of certain project conditions and decision statements would be the responsibility of the relevant regulator. It sounds like it would be logical, but it's not really clear in the designated conditions or decision statements incorporated into a CR that the permit must be enforced by those particular regulators.

The Chair: Ms. Duncan.

Ms. Linda Duncan: I'm puzzled as to what matters an enforcement officer can actually enforce under this bill. Maybe the officials could tell us.

Ms. Christine Loth-Bown: The conditions of a decision statement that is issued by the Minister of Environment and Climate Change following a decision are enforceable conditions, and those can be enforced under the enforcement powers in this act by enforcement officers of the Canadian Environmental Assessment Agency, which would become the impact assessment agency of Canada.

I believe this proposed amendment is trying to make it clear that conditions of a decision statement that are the responsibility of a regulator would be enforced by that regulator, and then any subsidiary conditions that don't fall directly to a life-cycle regulator or regulator would thereby be enforced by the impact assessment agency of Canada.

The Chair: I think that's clear.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: We have distributed LIB-45.1. Mr. Rogers.

Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.): Madam Chair, again this is in the spirit of the some of the other amendments I've introduced regarding timelines and trying to provide for more timely assessments.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

● (1235)

The Chair: We'll move on to LIB-45.2.

Sorry, it's a mistake. It's our fault.

We're on NDP-47.

Ms. Linda Duncan: This was called for by a good number of those who participated in the interviews for the expert panel, and also by those before us. It would simply add a statutory right to appeal of a ministerial or cabinet decision on designated projects. The appeal would be to the Federal Court and would be on questions of law and mixed questions of law and fact. It was specifically recommended by both the Canadian Environmental Law Association and by Professor Dr. Meinhard Doelle, who proposes that we have an additional tribunal, which we'll come to later.

This is normal for any type of assessment process like this, and it's kind of surprising that it's missing. It is normal in any provincial environmental assessment process that you would be able to seek a determination on a question of law or mixed question of law and fact.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We will pause for five minutes.

● _____ (Pause) _____

●

● (1245)

The Chair: We will resume.

I'll start off by saying that I have to give you a ruling on PV-66 before we go through it, Ms. May.

The *House of Commons Procedure and Practice*, Third Edition, states on page 772.... I think you can read it there. It's my opinion that the amendment seeks to alter the terms and conditions of the royal recommendation by imposing a new charge on the public treasury, and therefore, I rule the amendment inadmissible.

● (1250)

Ms. Elizabeth May: Madam Chair, I'm not in a position to challenge your ruling as a non-member of the committee, but the participant funding program has been established. It's been stated elsewhere that it's the central purpose of the act. My amendment is a housekeeping detail to make sure it's substantive. It's not creating a new spending power, and it's not altering the purpose of the legislation, nor the government's intent to ensure that participant funding is available throughout the process.

If my amendment is inappropriate, I hope that the government will look at this again and perhaps fix this at report stage.

The Chair: The situation here is that you're broadening the powers from what's already been decided. That's why it's not admissible.

Ms. Elizabeth May: I understand that, but I'm only broadening it to the extent of the government's stated intention. The government's stated intention wasn't that only certain participants would qualify for participant funding. It was a broad statement that there would be rights for participant funding.

I want to just grab this opportunity to say that, if my motion is out of order, I would hope that perhaps the other analysts working within the government staff, working within the Liberal research bureau, working for the different members here at the committee, might consider a report stage amendment to ensure that participant funding is available as the government intends.

The Chair: At this point, we can take that under advisement.

We're now on to NDP-48.

Ms. Linda Duncan: It may have the same issue. In this amendment, we delete lines 21 to 23 on page 45. That removes the exemption from a participant funding program for assessments conducted through a substitution by another jurisdiction. A substitution, supposedly, the government is saying, could include federal officials appearing and speaking to matters related to federal...and certainly could include members of the public indigenous testifying and bringing forward evidence related to federal responsibility, even though the federal government has said that it will let a province or territory run the review.

There needs to be participant funding to cover anybody who is engaged in any hearing that is dealing with federal areas of responsibility. That should be taken out. Surely the government is going to provide participant funding for anybody who is speaking to matters related to federal jurisdiction in the review of a project.

The Chair: You're right. It is very similar to what went before, but because you're removing lines, it is admissible. We're going to move forward on it.

We'll now vote on NDP-48.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we're on NDP-49. Ms. Duncan.

Ms. Linda Duncan: One of the greatest surprises and disappointments of this bill is that it's totally vacuous on participant funding or the right to participate.

What this amendment does is clarify the process on how a participant funding process would work, and that would be determined by regulations to be issued and/or agency guidelines. The amendment proposes new subsections to proposed section 75 to clarify how a participant funding program is to be established: the procedures, the guidelines, the submission rules, who determines under proposed section 36 where there's a review panel, where there's a regional or strategic assessment, any right to request, and any rules and procedures for cost advances. These are all normal procedures that are usually in impact assessment procedure. They certainly exist in my province.

● (1255)

The Chair: I'm a little confused. You're putting it in after (2), which is in the proposed "Exception" section, right?

I'm just trying to understand. You're on line 23 on page 45, and that is in the exception after (2). You're adding (3) and (4), so it's not (d), then Exception; it's—

Ms. Linda Duncan: This one is after proposed subsection 75(2). I'm adding whole proposed subsections (3), (4), (5), (6), (7), and (8).

The Chair: It's not under the heading "Exception".

Ms. Linda Duncan: You're speaking of NDP-48. This is NDP-49, and it would occur just before "Cost Recovery" and just after proposed subsection (2).

The Chair: Yes, I've got it now.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to move to CPC-8, but there is a distribution right now of CPC-8.01 to CPC-8.03. Copies are coming around, and they do matter because it's consequential to those.

Go ahead, Mr. Fast.

Hon. Ed Fast: The amendment is that Bill C-69, in clause 1, be amended by replacing line 22 on page 46 with the following:

the costs and amounts referred to in

The previous act only required the proponent of a project to pay the agency for any costs incurred for prescribed services provided by a third party in any prescribed amounts that are related to the exercise of the agency's responsibilities. Currently, this bill reads that the "Governor in Council may make regulations" and then sets out the two items: one has to do with providing for fees, charges, or levies, and the other provides for the manner of calculating those fees.

The rationale is that, if this section were to be kept and the agency can charge the proponent for whatever it wants, then there is no incentive for the agency to be efficient and effective in its duties. Project proponents and investors need certainty if they're going to invest in the Canadian economy. We've seen that certainty dissipate in Canada. We've seen a flight of capital. The regulatory process needs concrete timelines if we're going to have certainty.

I note that the government pledged that investors will get more certainty and shorter timelines with this legislation. In fact, the timelines here are longer, when you add the planning phase to the assessment phase and all of the discretionary powers the minister has in order to extend and suspend. Clearly this is not an expedited process.

I'll leave it at that.

The Chair: Ms. Duncan.

Ms. Linda Duncan: Surely what Mr. Fast is proposing here is exactly what should happen under proposed section 76. My understanding is that industry would have every right to be engaged in the process when promulgating the regulations to actually determine what fees may or may not be determined.

The Chair: So, are you agreeing?

Ms. Linda Duncan: Yes, if they have faith in the regulatory process.

(Amendment negatived: nays 6, yeas 3)

The Chair: That also voted against CPC-8.01, CPC-8.02, and CPC-8.03.

We'll now move to NDP-50.

● (1300)

Ms. Linda Duncan: I'm also proposing a section 82.1.

Do you want me to do them at the same time?

The Chair: No. We're at page 47 in the bill, and you have NDP-50.

Ms. Linda Duncan: With regard to proposed section 81, I am adding to the definition of "project" because there is a third category. I'm finding, frankly, this whole section very convoluted, and I don't really understand why it's drafted the way it is. However, there is a third category: activities not on federal lands. A federal assessment can occur on projects on federal lands and also on projects on non-federal lands. Authorities have power on federal lands and also on non-federal lands. In other words, they could be aboriginal lands. They could be territorial lands. They could be provincial lands.

I am also proposing a new paragraph under proposed section 81:

> (c) a physical activity that is carried out on lands other than federal lands, but that is regulated by a federal authority or wholly or partially financed by a federal authority.

The Chair: Mr. Fast.

Hon. Ed Fast: Could I ask the officials to comment on whether this may be ultra vires the federal government's constitutional authority?

Mr. Jean-Sébastien Rochon: If the physical activity is carried out on lands that may not be federal lands, but are otherwise regulated by federal authority, I think this would be within the realm of Parliament to regulate.

It would be within Parliament's power to regulate, but if you'll allow me a few seconds, perhaps, I could firm up that position.

Ms. Christine Loth-Bown: In addition to that, adequate provisions for federal lands—as laid out in the legislation—are to fill a gap where there is no other jurisdictional legislation that exists.

The Chair: I'm not sure that I understood that.

Ms. Christine Loth-Bown: We want to make sure that activities on federal lands.... Other activities are regulated often by other jurisdictions. The attempt of these provisions is to ensure that all activities that occur on federal lands—because there is no other jurisdiction that is responsible for them.... We want to make sure that we are providing the necessary assurances in those areas.

The Chair: Okay, so it's quite specific.

Ms. Linda Duncan: I'm not reassured by that because this part talks about projects carried out on federal lands, and it talks about projects outside Canada. It, therefore, should also deal with projects that are not on federal lands. Why are we excluding that huge category of lands where, frankly, most of the federal assessments occur, or used to occur before they were all exempted?

Ms. Christine Loth-Bown: The tool that's being used to determine what activities require a federal impact assessment is the project list, the designated project list. We currently have a discussion paper out on the criteria for determining what projects will be subject to this act.

Then, in addition to those projects, there are also responsibilities for federal authorities for projects that take place on federal lands, or outside Canada, and that are run by federal authorities. An example would be development projects outside Canada.

● (1305)

Ms. Linda Duncan: I'm not convinced.

The Chair: Mr. Fast.

Hon. Ed Fast: Well, I'm not convinced that this amendment is the way to go. If you read it, this is not only about federally regulated activity on non-federal lands. It's also about the federal government financing a private project, say, within a municipality or within a province. Again to Mr. Rochon, is it within the power of the federal government to designate this as a project?

What I'm saying is that there's a project that a municipality or a province undertakes. It just so happens that the federal government has agreed to finance part of it. Does that now allow it to fall within the ambit of the federal government's jurisdiction?

Mr. Jean-Sébastien Rochon: If you allow it, Madam Chair, I will check my answer with some of my colleagues, but the federal government's power to spend money would be captured as part of the federal government's jurisdiction. It would be subject to any rules we want to make and impose on it in the legislation.

If you give me a few seconds, I'll consult with my colleagues here.

The Chair: With the committee's agreement, we'll just stand this one down and move to the next one.

Hon. Ed Fast: I'm guessing your folks are going to vote against it. If they are, we might as well just vote on it.

The Chair: Let's get the answer. We put it to them. I'd like them to have the chance to answer the question properly.

Mr. Jean-Sébastien Rochon: Simply to restate what I have just said, this would be part of the federal government's spending power. Like any other government decision that is within our federal jurisdiction, which includes federal spending power, that could be the subject of an environmental assessment if Parliament so chooses.

This is the granting of money, whether it's to a municipal government, a foreign organization, or any other regulated federal entity. It could be the subject of federal impact assessment.

Ms. Linda Duncan: I understand what the exceptions are. I'm just asking why you are not also applying those to non-federal lands.

You're essentially saying that an authority can't carry out the project if they've given money or will partly authorize the project. Why do you not also have a provision related to a project on non-federal lands? It seems logical. You're completely missing that third category of where projects can occur: federal lands, non-federal lands, and foreign lands, but you don't have the non-federal lands.

The Chair: This will be the last clarification.

Mr. Brent Parker: I'll just make one comment on it.

Like Christine noted earlier, the project list drives where impact assessment happens. On federal lands, there's no provincial oversight. Recognizing that, this act puts in place provisions for an assessment process. It selects federal lands as being the appropriate place to do that, because there is that gap. The quality assurance program that we have run on those particular types of projects—we've done that for a number of years—indicated that 94% of those types of projects have minor or insignificant impacts. Those that do have higher potential for impact are being considered for the project list. All those other ones would go through this alternate assessment process that focuses on environment in federal lands.

Ms. Linda Duncan: So you're saying in some cases the authority can run the environmental impact assessment instead of the agency or a panel, but they are completely different factors.

● (1310)

Mr. Brent Parker: That's correct.

Ms. Linda Duncan: Unbelievable.

The Chair: Clarity has been had.

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are now on PV-67. Ms. May.

Ms. Elizabeth May: PV-67 is in the same vein as Madam Duncan's earlier effort. I know that some of the questions put to government witnesses a moment ago would suggest that it might be unusual or overreaching. I want to stress that between 1975 and 2012, a period of over 40 years, any time federal government money was spent on a project, it was screened at least at a minimum. There was a federal environmental assessment review of every project on federal land, every project in which federal money was used, and every project in which an authority was a proponent, as well as those that were triggered by a law list.

We now have a project list. Of course we all know there's a public consultation about what the project list will be. We have an impact assessment bill in front of us, and the guts of it remain a big question mark. When will there be an impact assessment? What projects will come out under review? Everything we've seen in documents from the minister's office and statements from the Minister before this committee is that the intention of the current government is not to repair the process but to keep it only for major projects. That's a fundamental question. What is impact assessment for?

From 1975, through Progressive Conservative governments, Liberal governments, it was always about the federal government having an obligation to assess all the projects in its jurisdiction. Again, we're seeing a substantial shrinking of that in this bill.

That's why I'm putting extra effort into pleading for this one amendment, that if you can accept Green Party amendment 67, we will be saying in the definition of the act, which will inform the project list, that a project is always one that takes place on federal lands or where the authority is a proponent or where the federal government is providing funding. This will go a very long way to meeting the mandate letter that re-establishes trust in the IA process.

The Chair: Thank you very much for that clarity and for that detail.

We have had a bit of debate on this already, so we're going to go straight to vote.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

Ms. Linda Duncan: Madam Chair, before we move forward, I have an amendment to proposed section 82 on the floor.

The Chair: Yes, your NDP-50.1. It's "Project carried out on non federal lands".

Ms. Linda Duncan: It's very simple. I would be removing proposed paragraph (a) of proposed section 82.

The Chair: We're adding a new proposed subsection 82.1 on page 47.

You're adding something. You're not removing. You're replacing proposed section 82 with proposed subsection 82.1. Is that what you're trying to do?

Ms. Linda Duncan: There are two parts to it, so can I do them in two separate...?

● (1315)

The Chair: I'm all yours, but let's do it quickly.

Ms. Linda Duncan: The first one was for proposed section 82, as I said. I would remove proposed paragraph (a).

I believe that the assessment should be done by the agency or panel, not by the authority.

The Chair: Does everybody understand that amendment that's come in from the floor? It's going to be NDP-50.01, and that is the removal of proposed paragraph 82(a).

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we're on to your NDP-50.1.

Ms. Linda Duncan: On page 48, after line 3, I would add the new proposed section 82.1, along the lines of what we've been discussing, "An authority must not carry out a project on non-federal lands, exercise any power or perform any duty or function... or provide financial assistance unless the authority determines that the carrying out of the project is not...."

It's the same as proposed section 82, but it applies to non-federal lands.

The Chair: Okay. It's putting in a new proposed section, so you're leaving "Project to be carried out on federal lands", and then you're adding a new proposed section 82.1 right after page 48, line 3.

Ms. Linda Duncan: That's correct.

It is word for word the same as proposed section 82, but instead of saying "federal lands", it would say "on non-federal lands".

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we're going to PV-68, which is identical to LIB-45.2

Mr. William Amos: Madam Chair, there's a minor grammatical or spelling error here. We're supportive of this initiative. We just wanted to make sure the change was made.

The Chair: It's identical.

Mr. William Amos: It's not. There's "based on a consideration" versus "based on consideration"

Mr. William Amos: There's an "a". Because Ms. May can't move her own amendments....

The Chair: Unless I'm having a problem here, hers is identical to yours.

We seem to maybe have a version problem with yours. Can you just please read what you are replacing in PV-68? You said, "replacing line 18 on page 48 with the following". Please tell me what it reads in yours.

Ms. Elizabeth May: It reads, "adverse environmental effects must be based on a consideration".

The Chair: Okay. It's the same.

Ms. Elizabeth May: I can understand. What's happening is that what Mr. Amos is moving, if I have it correctly here in front of me, "must be based on the report with respect to the impact assessment and a consideration". That one's not the same.

Mr. William Amos: It would appear they are identical. An earlier version we saw was not, and so we—

● (1320)

The Chair: Okay. So if vote on PV-68, then LIB-45.2 is moot, because we will have voted on the same thing with Ms. May's.

Mr. William Amos: We'll vote on Ms. May's, and we'll withdraw mine.

Ms. Elizabeth May: If there's a problem supporting my amendment in favour of yours.... But if we can vote on mine and pass it—

The Chair: No, yours came first.

Ms. Elizabeth May: In that case, I would ask for support for this amendment.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote, please.

(Amendment agreed to: yeas 6 ; nays 3 [See *Minutes of Proceedings*])

The Chair: Ms. May, your PV-69 was already dealt with under PV-1, so that one is off.

Now we're at LIB-46, which was already voted on.

Ms. Linda Duncan: My amendment is before PV-69. I have the copies here in both languages.

The Chair: I'm sorry.

Ms. Linda Duncan: I am on page 48, at line 19.

It's quite straightforward. This is what I have been calling for consistently and what the witnesses have been calling for. It would be for the factors in proposed section 84. It would replace lines 19 to 31 with the factors listed in proposed section 22. It simply means that if an authority is going to do the assessment, they should do the assessment in the same way the agency would do the assessment, based on the same factors.

The Chair: We're calling this NDP-50.2.

Ms. Linda Duncan: I am replacing all of those factors in lines 19 to 31. It's actually to line 33, rather than line 31.

Then it would say, "must include consideration of the factors listed in section 22".

The Chair: Does everybody understand what's happening here? She's just amending proposed section 84, taking out all the (a), (b), (c), (d), and (e), and just changing that last line of 84 to "must include consideration of the factors listed in section 22".

Shall the amendment carry?

Hon. Ed Fast: I request a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now moving on to LIB-46.

Mr. John Aldag: I'll speak to that one.

This is an amendment from my colleague, Mr. Bossio, to advance the spirit of reconciliation through this legislation. It's simply taking what we heard from indigenous organizations and expanding the definition from traditional knowledge to indigenous knowledge.

● (1325)

The Chair: We actually carried.... I think we did. It was the one that I actually did before we stopped doing it. We passed LIB-1, LIB-4, LIB-5, LIB-16, LIB-46, LIB-57, LIB-60, and LIB-62, and it was all about that indigenous knowledge.

Do you want to just check?

It's the only one I thought we did do, but I'm being told "maybe not". You know what? Let's just do it again.

Mr. Darren Fisher: If you did it, you can't do it again.

The Chair: There was one that we did do. Which one was that?

Mr. Olivier Champagne: It was PV-1.

The Chair: All right, it's my fault. I thought we did it, but we didn't.

I always have to defer to the legislative clerks. They know what I'm doing.

Mr. John Aldag: [*Inaudible—Editor*] we're not adding LIB-57 and 62?

The Chair: No, we're just going to do—

Mr. John Aldag: Just LIB-46.

The Chair: We're going to do them as they come. We're going to leave it at that.

It's my fault. Sorry, I got ahead of myself again. I made notes and didn't correct them when we stopped doing it.

Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: Now we're going to do LIB-47. Mr. Fisher.

Mr. Darren Fisher: Thank you, Madam Chair. It's another housekeeping amendment.

This amendment would ensure that only applicable factors must be considered when determining whether a project outside Canada is likely to cause significant adverse effects. The factors under the proposed IAA, paragraphs 84(a) and (b), do not apply outside Canada, yet they are required to be considered for these projects.

If you want, Madam Chair, I can read you the proposed subsection 84(2), or we can understand that it's housekeeping.

The Chair: It sounds like everybody should have read this. It's been on the books for a little bit.

Ms. Linda Duncan: I'd like an explanation as to why the federal government would not have to consider that.

Ms. Elizabeth May: He didn't say why. He just said what he was doing.

The Chair: Mr. Fisher, do you want to give an explanation?

Mr. Darren Fisher: Perhaps the department—

Ms. Christine Loth-Bown: It's because paragraphs 84(a) and (b) are directed to indigenous peoples of Canada and constitutional obligations under section 35. We're talking about projects that are outside Canada, which thereby would not affect inherent rights under section 35 of the Constitution.

Ms. Elizabeth May: Are you sure about that?

What if it's Coast Salish people, and it's something that's affecting the Coast Salish? What if it's a project outside Canada, but it's still within the boundaries of traditional hunting and fishing of indigenous peoples in Canada? What if it's the Gwich'in people, and it has something to do with Alaska?

If they're not there, they're not there, but hypothetically, they could well be there, and because it's a project outside Canada, we wouldn't be—

Ms. Christine Loth-Bown: The examples you've provided are transboundary examples, which then may be subject to the act at large. We're talking about projects here that are non-designated projects, or projects on federal land and outside Canada.

The Chair: Ms. Duncan.

Ms. Linda Duncan: It's completely puzzling to me. The authority would consider impacts on non-indigenous communities in Canada and would consider comments from the public, but it would not consider any concerns identified by indigenous peoples.

Are you seriously going to put this forward?

Mr. Darren Fisher: Yes.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote.

(Amendment agreed to: yeas 8; nays 1 [See *Minutes of Proceedings*])

The Chair: We're now on LIB-48. If adopted, PV-70 cannot be moved because there will be a line conflict.

Mr. Aldag.

● (1330)

Mr. John Aldag: This one removes a qualifying statement here. It removes, "if the authority is of the opinion that it is appropriate in the circumstances", to simply say, "such a determination and that invites the public to provide comments respecting that determination." The intent here is to increase consistency in the bill as well as transparency.

The second part of it is changing "15 days" to "30 days".

Those are the two elements of this amendment.

The Chair: Ms. Duncan.

Ms. Linda Duncan: Am I reading this to say that the authority can decide that the public doesn't have to be invited to provide comments?

Mr. John Aldag: Maybe the officials want to make a comment.

Mr. Brent Parker: If I understand your question, it's whether there is discretion for the federal authority to decide.

Ms. Linda Duncan: If the public can comment.

Mr. Brent Parker: The amendment would actually change that. Currently, there is discretion, but the amendment would obligate them to invite public comment, and there would be a new time period associated with that.

Ms. Linda Duncan: You're saying that the notice is inviting.

Mr. Brent Parker: Yes. They must post that notice, and that invites the public to provide comments.

The Chair: All those in favour of the amendment?

Mr. Ed Fast: I would like a recorded vote, please.

(Amendment agreed to: yeas 9 ; nays 0 [See *Minutes of Proceedings*])

The Chair: That means that PV-70 is not possible because of a line conflict. We move on to amendment LIB-49.

Mr. John Aldag: This is the second motion that looks at dealing with federal lands and increasing the consistency in the wording through the bills. The intent of this one is to provide certainty through a shared process across government for assessing projects or types of projects on federal land and outside Canada.

The Chair: Shall the amendment carry?

Mr. Ed Fast: I would like a recorded vote, please.

(Amendment agreed to: yeas 6 ; nays 3 [See *Minutes of Proceedings*])

The Chair: We are on amendment NDP-51.

Ms. Linda Duncan: This is a very important one brought forward by a number of the lawyers who testified, including Professor Meinhard Doelle from Halifax.

After line 27 on page 50 we would add 91.1 just before the heading "Regional Assessments and Strategic Assessments". That would impose a clear responsibility on federal authorities to carry out the regulatory duties, powers, or functions with respect to the approved projects to ensure effective implementation of the follow-up programs. It would ensure transparency of the results provided through a central federal registry.

It would require the federal authorities to actually perform their duties and functions. We dealt with this before on enforcement. That was why I raised the question about what exactly the impact assessment agency would do. You do an environmental impact assessment and then you need to go back to the regulatory authorities who are charged in their mandate legislation to actually give licences or give approvals and so forth. This would require that they take into consideration the recommendations and the directions under the impact assessment and actually deliver the responsibilities and then make it known on the central registry that they have taken those actions.

The Chair: Shall the amendment carry?

Mr. Ed Fast: I would like a recorded vote, please.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: On amendment PV-71, Ms. May.

By the way, this vote will apply to PV-72.1 and PV-76, which is a substantial one.

● (1335)

Ms. Elizabeth May: It amends to ensure that under this proposed section, decisions that are made reflect back on "conditions and circumstances" established "by regulations made under section 112.1", which currently doesn't exist in the bill. The conditions and regulations in proposed new section 112.1 are in my amendment PV-76.

I don't know whether you want me to describe PV-76 at this point or not, but it is to backfill for important rules of procedural fairness; to ensure that the minister makes regulations for the rules of practice and procedure for review panel hearings and that those be based on rules of procedural fairness and natural justice and emphasize flexibility and informality.

We've heard that some people want to make sure that this is not too court-like, but we've also heard from many witnesses that the great black hole as to what the content of public participation will be is a significant problem with this act.

I take the point and I'm grateful for the earlier Liberal amendment that modifies public participation rights earlier in the act and says that they must be meaningful, but this is basically a definition of meaningful. This is what any administrative lawyer would say is the bare minimum of meaningful engagement of public participation rights.

As well, it is setting out in regulation the detailed criteria and process to be followed to determine which designated project contributes to sustainability, and the conditions and circumstances in which regional assessments or strategic assessments must be conducted. It refers to the classes of projects on federal lands or outside of Canada in respect of which the agency would conduct a streamlined assessment based on the purposes of the act.

PV-76 imports to the act a substantive, meaningful improvement by injecting a new section 112.1 on page 59, as you can see if you're going back and forth in the act to see where it would come. It would come as the minister is making regulations. Right now, there are powers that the minister can exercise later for making regulations. That's very typical in an act, and it touches on issues of public participation, particularly in terms of participant funding programs, but it doesn't set out that the minister will by regulation set out the rules of practice and procedure for the impact assessment process.

I think this is an extremely valuable amendment and one I hope will carry. Again, however, if you carry PV-71 without amendment PV-76, you have a bill that doesn't make sense, because there is no proposed section 112.1.

The Chair: They are all pulled together, so the vote will apply to all of them, because you're right: if you have one without the other, it doesn't make sense. Amendment PV-76 is a substantial amendment. The consequential ones are PV-71 and PV-72.1.

● (1340)

Ms. Elizabeth May: Thank you, Madam Chair. That's the best way to explain it. Amendment PV-76 is the substantial one, and the earlier ones that fall in order are those that are consequential. As it happens, however, they fall earlier in the act, although later in any common-sense analysis.

Ms. Linda Duncan: Amendment PV-76 I think comes after my amendment NDP-56.

The Chair: It does.

It's okay. Yours are different ones. We're fine.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: That applied to PV-71, PV-72.1, and PV-76.

Now we're moving on to PV-72.

Ms. Elizabeth May: I'm so sad from that last vote because, honest to goodness, I can't understand why anyone would call public participation meaningful and be unwilling to define what it means.

But I'll move to PV-72. This amendment is changing text on page 51 at line 26 to insert a new proposed section 93.1 so that when we refer to "regional assessments"—and this is from West Coast Environmental Law's brief—it adds a definition of "regional assessment" to specify the assessments have the effect of including historical, existing, and future activities as well as looking at alternative development and different scenarios for any region. When looking at a regional assessment, requirements for regional assessments identify ecological limits and include cumulative effects.

My amendment, which would insert itself at line 26 on page 51 is, in fact, a new proposed section, which would be 93.1, so that, when we refer to "regional assessments" in section 92, we have some guidance for a comprehensive understanding of what "regional assessments" mean.

The Chair: I see where it fits.

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

Ms. Linda Duncan: Before we continue, can I ask what time we're going to adjourn or recess?

The Chair: Yes, we will suspend. I thought we would do 10 minutes before QP, if that's okay, and then we'll get back at it right after QP and the votes.

We are now at PV-73.

Ms. Elizabeth May: This, again, you'll find on page 51, and it replaces lines 35 to 37. This was based on the witness on this amendment, and the advice came from the Assembly of First Nations that the phrase that is relevant to conducting impact assessments be removed in relation to strategic assessments in order to ensure that the process of any existing Canada plan program is consistent with the indigenous rights recognition framework.

● (1345)

The Chair: You've just taken off the relevancy.

Ms. Elizabeth May: Yes.

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 9; yeas 0 [See *Minutes of Proceedings*])

The Chair: On NDP-52, Ms. Duncan.

Ms. Linda Duncan: Again, this is giving some kind of specifics to regional and strategic assessments. It's recommended strongly by the expert panel report. They said that a discretionary approach to carrying out regional studies under the current act has not been used. Regional and impact assessments are too important to long-term federal interest to be triggered on an ad hoc basis. A schedule should be created to prioritize which region should require regional assessment, and it's sometimes impossible to deal with broad objectives in a project impact assessment without strategic impact assessment providing direction. This was strongly supported by Canadian Environmental Law Association, Professor Doelle, and the Canadian Environmental Network.

The amendment would require that:

> 95.1 (1) The Minister must establish and maintain a list of priority regional and strategic assessments, and updates it at least annually.
>
> The Minister must, in each calendar year, conduct at least one regional assessment and one strategic assessment included in the list established under subsection (1).

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1)

The Chair: We have PV-74.

Ms. May.

Ms. Elizabeth May: As it currently is drafted, proposed section 95 is odd in that it's entitled "Strategic Assessments" but gives no guidance whatsoever as to what a strategic assessment is to look at. This was noted by some witnesses.

My amendment to proposed subsection 95(2) is to say that:

(2) The assessment referred to in subsection (1) must include an assessment of the environmental, economic and social effects, and of alternative means of carrying out the physical activities.

In other words, it puts some guidance as to what a strategic assessment is to look at. Otherwise it's without any guidance at all.

The Chair: Mr. Fast.

Hon. Ed Fast: Can I just get some clarification?

I'm looking at page 52, line 3, just before "General Rules". Is that correct?

The Chair: Yes.

Hon. Ed Fast: The proposal is for there to be a proposed subsection 95(2).

The Chair: I know; it doesn't really fit.

Hon. Ed Fast: I'm going to the previous page, there's no proposed subsection 95(1).

The Chair: Yes, there's no proposed subsection 95(1).

Hon. Ed Fast: There's something wrong here.

The Chair: To be clear, if this is adopted they will add a proposed subsection 95(1), which isn't there now; and and then proposed subsection 95(2) will be added.

Hon. Ed Fast: Okay. It's assumed that will happen.

The Chair: Yes. That's how the drafters know.

Hon. Ed Fast: So there's a renumbering that takes place.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1)

The Chair: We'll move on. Amendment LIB-50 was withdrawn, and we are now on PV-75.

Ms. May.

● (1350)

Ms. Elizabeth May: We're still in the rubric of "Strategic Assessments". What I am proposing is based on the testimony of the Assembly of First Nations, that we amend this proposed section to ensure consideration of indigenous knowledge in any strategic or regional assessment.

It's very clear. My amendment speaks for itself. It must include terms respecting the consideration of the traditional knowledge of the indigenous peoples of Canada.

The Chair: That's adding a third proposed subsection under proposed section 96.

Mr. William Amos: Madam Chair, because this issue really is of great importance—the incorporation and respect of indigenous knowledge—we've brought forward our own amendments, in particular LIB-51. It would require the taking into account of scientific information as well as indigenous knowledge.

I don't want there to be any sense that we're not focused on achieving similar ends. I think there's a difference in the method of getting there.

The Chair: We are taking the vote.

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to stop here. I'm looking at my watch and we're at 10 minutes to. I'm going to suspend, and we're going to come back right after votes.

● _____ (Pause) _____ ●

● (1530)

The Chair: We will resume. Welcome back, everyone.

We're going to start at LIB-51.

● (1535)

Ms. Elizabeth May: Madam Chair, if I may, I wanted to make a brief intervention. You all know that the motion that requires me to be in committees is difficult for me. Bill C-74 is going through clause-by-clause consideration right now. I have amendments there too. It's simultaneous. I'm going to be in and out. I hope I won't miss one of my amendments. In case, I'm out of the room, I would want you all to know that it's because the motion you passed is identical to the motion passed in the finance committee. I'm fortunate they're not in different buildings today; that has happened to me in the past. I'll do my best not to miss anything.

Thank you.

The Chair: That's fair enough.

Mr. Amos, do you wish to speak to LIB-51?

Mr. William Amos: Thank you, Madam Chair.

We heard loud and clear from indigenous organizations and leaders that the incorporation of indigenous knowledge into strategic and regional assessments was important. We wanted to deliver on that. That is what LIB-51 is all about.

Ms. Linda Duncan: Will you explain how it's different?

Mr. William Amos: I'd have to review both side by side. I suggest that by dint of the fact that we consulted with government lawyers and the government itself, it's probably a bit better.

Ms. Linda Duncan: I think I can probably add that simply deciding to add "scientific information" makes it different.

The Chair: Okay, we're not going to debate. We're going to vote.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 8; nays 0 [See *Minutes of Proceedings*])

The Chair: That's excellent. We're off to a good start.

Now on LIB-52, we have Mr. Amos.

Mr. William Amos: I understand from Mr. Bossio that the purpose of this amendment was to protect indigenous knowledge in the context of assessments, so this should clarify that indigenous knowledge that's used in a strategic or regional impact assessment will be protected. The connection points are with the upcoming Liberal amendments 63 and125, which will require that before indigenous knowledge is disclosed that the minister consult the person or entity who provided it, as well as the person or entity to whom it be disclosed.

Also, Liberal amendments 89 and 126 will specify conditions on a disclosure of indigenous knowledge in light of consultations. There's a package. When it comes around to Liberal amendments 63, 125, 89, and 126, I won't go into the same detail. The intent and the function are the same.

The Chair: Okay. That's clear.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 6; nays 2 [See *Minutes of Proceedings*])

The Chair: Thank you.

On LIB-53, we have Mr. Aldag.

Mr. John Aldag: I believe my colleague Mr. Bossio has spoken to this one previously.

The essence is looking at adding "meaningfully" within the context of public participation.

The Chair: We've had some discussion about that today as well.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 8; nays 0 [See *Minutes of Proceedings*])

The Chair: It's unanimous. That's wonderful.

On LIB-54, we have Mr. Aldag.

Mr. John Aldag: Madam Chair, this isn't mine, so I just need to have a quick look.

● (1540)

The Chair: This is the one replacing line 4 on page 53, which reads, "On completion of the assessment". It's under "Report to Minister", proposed section 102.

Mr. John Aldag: Yes, everybody has seen it.

I think it's in the spirit of reconciliation, looking at how indigenous knowledge is considered in decision-making. This is one that was important to Mr. Bossio, and you have it before you.

The Chair: It's adding a proposed subsection and just changing the numbering so that there is a subsection 102(1) and 102(2).

Ms. Duncan.

Ms. Linda Duncan: I have a question.

Proposed subsection 102(1) in the amendment, as far as I can read, is identical to what it reads right now. I don't understand what's being done there.

The Chair: The only difference is the numbering. They have put in a "(1)".

That's what I was just saying. They've added a subsection, so they need a number there.

Ms. Linda Duncan: Oh, sorry.

It's funny. Sometimes the drafters do that and sometimes they don't.

The Chair: I know.

Different drafters....

Ms. Linda Duncan: Okay. Thanks.

Hon. Ed Fast: I would like a recorded vote.

(Amendment agreed to: yeas 8; nays 0 [See *Minutes of Proceedings*])

The Chair: Thank you very much.

I'm in a bit of a pickle here. For LIB-55, I don't have a copy.

Does anybody have a copy?

Hon. Ed Fast: Yes.

An hon. member: Is LIB-55 being withdrawn?

Mr. John Aldag: No, it's not being withdrawn. Mr. Bossio wanted to put this one forward.

This is to establish the Canadian assessment appeal tribunal. I think there was a ruling on it.

The Chair: I'll do the ruling.

Okay. I just didn't have it, and I wanted to make sure I had it in front of me.

This particular one seeks to alter the terms and conditions of the royal recommendation—it's similar to the other one—by imposing a new charge on the public treasury, so it's inadmissible. That's how that one is going to go. LIB-55 is inadmissible.

Ms. Linda Duncan: Are you saying that because members of this committee are doing it, not the government?

The Chair: This is the way it was written: "an amendment may not infringe upon the financial initiative of the Crown".

Ms. Linda Duncan: The government can make this change when they retable the bill.

The Chair: We can't do it.

Ms. Linda Duncan: It's a reminder that none of us are here representing the government.

The Chair: Thanks for the reminder.

Next up, we have PV-75.1.

You're back. Well done. That was awfully fast. Where is the other meeting?

Ms. Elizabeth May: Finance is just across the hall. Thank goodness it's not in a different building. I have had that happen.

The Chair: Okay, it's all yours.

Ms. Elizabeth May: I think that my attempt, like Mike Bossio's attempt, to create an environmental assessment appeal tribunal is going to meet the same fate.

I'm attempting to set up, in amendment 75.1 for the Green Party, a way of meeting the intent, if not the letter, of the expert panel on environmental assessment that recommended this government establish impact assessment as a stand-alone quasi-judicial tribunal. The bill fails to do that.

This is an attempt to go to a sort of halfway measure, but I'm certain your ruling, as it applied to Mr. Bossio's amendment, will apply to mine as well.

The Chair: This one doesn't give any remuneration, so it is admissible.

Ms. Linda Duncan: Proposed section 103.4 says that you can't receive remuneration, so you should be okay.

Ms. Elizabeth May: In that case, I could be okay.

The Chair: It says, "No member of the Tribunal is to receive remuneration".

It passes. It can go through.

● (1545)

Ms. Elizabeth May: That's wonderful. It's a shame that Mike is not able to be here, for good and strong family reasons. I certainly do think that if he were here, he would be very pleased that my amendment can stand where his was set aside, because it achieves largely the same thing: to try to establish a tribunal that will create.... I think it will reduce the amount of time in court. I'm sure that friends may be about to say that it will create additional impediments, but working through the conduct of the entire case—and we certainly heard this from numerous witnesses before us, including Meinhard Doelle from Dalhousie law school and Rick Lindgren from CELA—this will be expeditious to handling impact assessment by ensuring that there is a regular access to a quasi-judicial assessment appeal tribunal.

Hon. Ed Fast: I believe it is out of order. The whole purpose of protecting the crown against any actions here at committee or in private member's bills is imposing a burden on the public purse.

In this case, no remuneration to the members of the tribunal is provided for. However, out-of-pocket expenses would be recoverable by those serving in this capacity. That is a burden on the public purse.

Going beyond that, when establishing a tribunal, you have to set up the structures and the administrative support to conduct the appeals under this tribunal. This has an impact on the public purse. I don't know how you can rule one way in the previous amendment, and then say, no, this doesn't. It's not the issue of remuneration to members. It is, "Does this create an additional charge on the government's spending?" Of course it does. There's going to be an administrative system set up to conduct these appeals under the tribunal. There's going to be out-of-pocket expenses as tribunal members come to participate in the tribunals.

Madam Chair, I would ask you to reconsider.

The Chair: I hear your points. They're well made.

We're going to suspend for just two minutes to have a discussion. I hear your points, but there's a bit of grey here, so let me just have a discussion.

● _____ (Pause) _____ ●

● (1550)

The Chair: We're going to come back.

You've made a very good argument, but as we've gone through the bill we've looked at other ways that this royal recommendation is applied.

In part 2, you have a tribunal. There is the ability to appoint a tribunal, so I'm ruling it's not out of scope of the bill. That's not to say that there may be more costs if you do this, but it's within the overall scope of the bill. I'm going to allow this one, and we'll proceed to vote on it. I fully understand your point.

Ms. Duncan.

Ms. Linda Duncan: I can't conceive of any credible tribunal that has no remuneration. I would like to propose a subamendment to this to strike proposed section 103.4, and then I would feel I could vote on it.

The Chair: Then I can't rule on it. It's will be ruled inadmissible then.

Ms. Linda Duncan: I thought you decided your ruling already?

The Chair: No. I already struck the other one out, and she tried to bring in..so if I change that, then it's out.

Ms. Linda Duncan: I know it's going to get voted down by the non-government government members, but I'm just stating where my position is.

The Chair: I think that's fair.

Ms. Linda Duncan: It is incredible to consider there would be an appeal tribunal that receives no remuneration.

The Chair: Let's have that on the record with the vote.

Linda, are you withdrawing that? If you do that, I'm going to have to rule it inadmissible.

Ms. Linda Duncan: I'd like to move that subamendment. I'd like to take proposed section 103.4 out.

Hon. Ed Fast: I would like a recorded vote.

(Subamendment negatived: nays 7; yeas 1)

The Chair: Now we're going to PV-75.1

(Amendment negatived: nays 8; yeas 0 [See *Minutes of Proceedings*])

The Chair: We're moving to LIB-55.1.

Mr. Amos.

Mr. William Amos: We had discussed with Mr. Bossio his desire to see that meaningful public participation would be enabled at all stages of the process. This particular amendment goes to ensuring that public comments that are received are made available online, also that the records and information are easily accessible to indigenous people, to stakeholders—

The Chair: Hold on.

What's happened?

Hon. Ed Fast: I'm missing this one.

The Chair: Are you the only one without it?

Hon. Ed Fast: I guess so.

● (1555)

The Chair: I'll send mine down to you and get another one later.

Okay. Mr. Amos was in the middle of explaining his amendment, LIB-55.1.

Mr. William Amos: As I was mentioning, Mr. Bossio's LIB-55.1 really tries to do two things: ensuring the public comments that are received will be made available online, entrenching that aspect in law; and also ensuring the records and information will be easily accessible and remain available over time. The idea is to create some degree of permanence to the records that are submitted so that the public can fully engage and public participation is better enabled.

The Chair: Are there any questions?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 6; nays 2 [See *Minutes of Proceedings*])

The Chair: Now we have NDP-53.

Ms. Linda Duncan: Running along the same theme, this amendment modifies proposed subsection 106(1) to create a permanent record that can be used as a reference and lessons for future cases. At line 29 to 31 on page 55, we are adding "and maintained permanently".

The second part ensures that the data, and not just subjective reports and other records, be made public, so it's all data collected. There has been a propensity for agencies to just give a summary of data where analysis is done for sometimes "political" reasons. The first part is that they be maintained permanently for reference, for other reviews as well, and the second is that all data collected be posted, not just a summary of the data.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: LIB-56 was dealt with under LIB-9. CPC-8.1 was dealt with under CPC-1.1. Those are out. Now we have—

Mr. John Aldag: LIB-56 was passed.

The Chair: Yes.

Mr. John Aldag: But CPC-8.1 was not...?

The Chair: CPC-8.1 was defeated and LIB-56 was passed.

We're now at LIB-57.

Mr. Aldag.

Mr. John Aldag: I think we spoke about this one.

The Chair: We did, yes.

Mr. John Aldag: It was about the terminology.

The Chair: It was one of those ones that we were....

Mr. John Aldag: Yes. Exactly.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 8; nays 0 [See *Minutes of Proceedings*])

The Chair: We're now on NDP-54.

Ms. Duncan.

Ms. Linda Duncan: The amendment would add the following to line 3 on page 58:

> (b.1) prescribing the process for applications for costs and the awarding of costs for public participation in the participant funding program established under section 75, and the issuance of guidelines for funding following consultation with the public;

This requires the cabinet to make regulations for how the participant funding process will be conducted rather than leaving it on an ad hoc basis. It's necessary to provide direction and cost awards through regulations made under proposed section 109 rather than at the mere discretion of the agency. This is providing some level of certainty and clarity and fairness across the board for all reviews so that communities, indigenous people, and anyone coming forward will know what the rules are for costs.

This is normally what all assessment tribunals do. They make known what the rules are for applying for costs. There's usually a kind of chart that shows how much an engineering witness is paid, how much a lawyer is paid, and how much people will be paid to travel to the location, organize the community, or coordinate with other intervenors and so forth.

That's what this does. It provides that there will actually be clear regulations on how those costs are assessed.

● (1600)

The Chair: Okay.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 5; yeas 3)

The Chair: We're now on NDP-55.

Ms. Duncan.

Ms. Linda Duncan: This amendment, at line 23 on page 58, would allow the Governor in Council to make regulations restricting the minister's actions when entering into agreements with other jurisdictions. Proposed paragraphs 114(1)(c) and (f) deal with the minister entering into agreements or arrangements with other jurisdictions. This limits the discretion and would require that the Governor in Council make regulations.

People are very, very concerned about what kinds of agreements might be entered into, including substitutions and so forth, or arrangements with other jurisdictions on cross-border assessments. They highly recommend that there be some kind of clear guidance provided by the Governor in Council any time the minister considers entering into those agreements.

The Chair: All right. I think that's clear.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: We now go to NDP-56.

Ms. Linda Duncan: On the theme of legal certainty, this revision at line 4 on page 59 changes "The Minister may make regulations" to the "Minister must make regulations". The reason for this is that this entire bill is rife with discretion, and there's great concern about that. If I heard anything from the majority of witnesses, it was the concern about the level of discretion.

What this would do is actually require the minister—not give her the option—to issue regulations in those areas: procedures; prescribing the information required; respecting participant funding; designating physical activities; and respecting what's in the registry. It would ensure a full suite of regulations to provide a greater level of legal certainty to everybody who is participating in the review process.

The Chair: Okay. Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote, please.

(Amendment negatived: nays 5; yeas 3)

The Chair: Now we're on LIB-57.1. It's new. It's being distributed, so take a quick look.

● (1605)

Hon. Ed Fast: Do we deal with NDP-57 or LIB-57.1?

The Chair: No, this one comes ahead.

Hon. Ed Fast: It does?

The Chair: This is about adding something after line 8 on page 59, and the other one is about line 24, so we're going to do this one first.

Go ahead, Mr. Aldag.

Mr. John Aldag: This amendment is a new one. It clarifies the minister's regulation-making powers in the two areas that are specified.

The first is that it allows the agency to prescribe the form and format of the information submitted to the agency. This is a very key part of the theme of openness and transparency that we're trying to bring through this bill. The second part of it clarifies that the agency may prescribe the circumstances under which timelines will be suspended.

The Chair: Do you have a question?

Ms. Linda Duncan: What's the difference in proposed paragraph (c) from what it is now?

Mr. John Aldag: Just give me a second to look at it.

The Chair: This replaces lines 12 to 14 on page 59.

Ms. Linda Duncan: Is it the last part of the paragraph? What does that mean: "respecting circumstances"?

You're adding:

> and respecting circumstances, in relation to an activity, in which a time limit may be suspended;

What the heck does that mean?

The Chair: One says, "activities in respect of which time limits may be suspended", and the other one says, "any activity in respect of which a time limit may be suspended and respecting circumstances, in relation to an activity, in which a time limit maybe suspended". It's a bit of a clarification on proposed paragraph (c).

Ms. Linda Duncan: I think they need to explain it because they're tabling it.

The Chair: I agree, but I'm just telling you what's said.

Ms. Linda Duncan: I can read what it says. I'm asking them why it is necessary to add it.

The Chair: Mr. Fast, you're first.

Hon. Ed Fast: I have some more questions. Maybe we could have the officials tell us what the consequences of this would be.

First of all, let's understand that this is discretionary. It is not compulsory that the minister make these kinds of regulations. We just tried to bring some certainty there, and I was voted down. Now that we're dealing with the proposed regulation where there's a change from the word "activities" to "activity" and second "respecting circumstances, in relation to an activity, in which a time limit may be suspended", I'm not sure that's a bad thing, except it's not compulsory. If the minister decides not to pass any regulations, she can.

What kind of a system is that?

The Chair: Let's see what the experts tell us.

Mr. Brent Parker: The original language that referred just to "activity" enables us, from a regulatory drafting perspective, to be able to identify certain types of activities for which the minister could suspend the timeline. Then this additional language, "respecting circumstances", was a regulatory drafting issue to allow the minister to identify the nature of those activities.

To give you a concrete example, in the consultation paper that's currently out on the regulations, there are four different circumstances. To deliver on those as potential items for which the clock could be stopped, this language is needed. Those particular examples are at the request of the proponent, so that's a circumstance under which this could be used. Another is outstanding fees that still need to be recovered by the agency for the process to go forward. Another is critical information that's missing. For those issues, or potentially other ones that could be identified through the public consultation period, this language would enable us to be able to draft the regulations.

● (1610)

Hon. Ed Fast: You would agree there is nothing compelling the minister right now to come forward with regulations addressing any of those issues. Is that correct?

Mr. Brent Parker: For the minister to have an ability to pause the clock, regulations would have to be put in place.

Hon. Ed Fast: Nothing is compelling her to pass or introduce those regulations, based on the wording right now that we just discussed. Is that correct?

Mr. Brent Parker: There's no obligation for those regulations to come forward. There are provisions in the bill for the clock to be paused based on the regulations.

The Chair: Okay.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 6; nays 2 [See *Minutes of Proceedings*])

The Chair: NDP-57 was dealt with under NDP-3, so we're now on NDP-58.

Ms. Linda Duncan: You are saying that NDP-57 was dealt with?

The Chair: Yes, it was under NDP-3.

Ms. Linda Duncan: If you say so....

The Chair: "The vote will apply consequentially to NDP-57 and, if adopted, NDP-4 cannot be moved", that's what we did when we did NDP-3, and it did not pass.

We are now on NDP-58, which is an amendment to page 59 of the bill, at line 24.

Ms. Linda Duncan: Yes. I'm proposing a new section 112.1, which, given the fact that they're not mandatory, would give the minister one year to make regulations concerning those specified categories. They include the power to designate a physical activity, the posting of a notice on commencement of an impact assessment, the scope of factors, public participation, the effects set out in the report, delegation to another jurisdiction, approval of conditions for substitution, determinations as to the public interest, conditions in relation to adverse effects, and the minister's obligations regarding a request for assessment. That is, she would have to establish principles and criteria and provide guidance respecting all of those matters.

The second part adds additional areas where the minister must make regulations, and provides the minister with a broad suite of regulation-making powers, ensuring that regulations under these areas are made in a timely manner. It includes public participation procedures, panel procedures, criteria under proposed section 9 if you're designating, direction on how to carry out effective cumulative impact assessments, and so forth.

Again, these recommendations were made by a number of witnesses and briefs, calling for greater certainty in how the process is going to be applied.

● (1615)

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: PV-76 was dealt with under PV-71, so now we move on to NDP-59 and NDP-60, which are tied together.

Ms. Linda Duncan: NDP-59 removes the minister's discretionary power to issue guidelines or codes of practice, or to establish criteria for the appointment of members on review panels or committees in proposed sections 92 and 93. Proposed section 92 deals with regional assessments where the region is entirely on federal lands, and proposed section 93 deals with regional assessments where the region is only partially within or is entirely outside federal lands.

Essentially, it's the same thing again. This isn't about the minister making regulations. It's about her issuing guidelines and codes of practice, and criteria for the appointment of members on the review panels. It all seems to be very sensible, fair, open, and transparent, providing legal certainty.

I will speak to NDP-60 as well, since we're doing them together. Again, it adds a new section 114.1 and makes it mandatory, as follows:

> For the purposes of this Act, the Minister must
>
> (a) issue guidelines and codes of practice respecting the application of this Act;
>
> (b) establish criteria for the appointment of members of review panels; and

Actually, we only need to do one or the other. Obviously, this is something a lot of people called for.

The Chair: Fair enough. I think that's clear.

Mr. Fast has asked for a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: That did not pass, so neither did amendment NDP-60.

Amendment NDP-61 says, "Members of the advisory council are entitled to be paid reasonable travel and other expenses while performing their duties" so it it going to infringe—

Ms. Linda Duncan: That's for disbursements; that's not any fee. That's for travel and other expenses, disbursements. It's my understanding that it is perfectly appropriate. That's under Treasury Board guidelines.

● (1620)

The Chair: Part of the act involves those people who are going to be involved...but you're basically adding a new statement.

I'm going suspend for two minutes. I have to think about this.

● _____ (Pause) _____ ●

The Chair: Thank you very much.

Here's the explanation. Even though it's normal practice to pay reasonable expenses, for travel and other expenses, in practice, it's never written down. Because it's now being written down, it's an obligation. Whereas in practice it's an obligation, it's not in statute. That's why there's a subtle difference if it is written down, and therefore, it's inadmissible. Otherwise, it is a little bit in that grey area. It's not admissible because you are now writing it into the statute to pay them.

Ms. Linda Duncan: Are you saying there's not a single advisory council...? Did we not make this same recommendation for CEPA?

Hon. Ed Fast: For what?

Ms. Linda Duncan: We did for CEPA. Do you remember?

Hon. Ed Fast: We did. It was for the Sustainable Development Act. That's what it was.

Ms. Linda Duncan: Yes.

The Chair: It's a recommendation.

Hon. Ed Fast: We just did it.

The Chair: Maybe we didn't understand the subtleties of what goes on here in legislation and statute.

Anyway, we're going to move on. I've made the ruling. It's not allowed because it is writing it into the statute, and that's not the way it is. It's practice.

Ms. Linda Duncan: If it has been that way in practice, that doesn't mean the government can't finally be more up front.

The Chair: I hear you, but it's not going to happen this time. It has to come another way.

● (1625)

Ms. Linda Duncan: Are we given assurance here that members of advisory councils are going to have their costs paid?

Hon. Ed Fast: No.

Ms. Linda Duncan: We're not...?

Hon. Ed Fast: There's no assurance.

Ms. Linda Duncan: So will only those people who can afford to come on their own be on the advisory council? All right.

The Chair: There we go. Amendment NDP-61 is inadmissible.

We're now moving on to amendment PV-77, and we're missing Elizabeth.

Mr. John Aldag: Vote on it.

The Chair: I think we will. She can't explain it, but we will vote on it.

Mr. Fast requests a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: Let's move onto the next one which is LIB-58.

Mr. Aldag, go ahead.

Mr. John Aldag: For this one, the committee should be familiar with this kind of terminology, which we looked at with my private member's bill. It has the goal of meaningfully engaging indigenous peoples, which we feel is really foundational to this bill. It takes the wording and puts it in acceptable terms for the legislation. It does ensure that we'll have a person recommended by an indigenous governing body or other entity that represents interests of first nations, of the Inuit, and of the Métis.

The Chair: Shall the amendment carry?

Hon. Ed Fast: First of all, I'd like a recorded vote, but I'd also like to make one comment.

The Chair: Do you want to make your comment first?

Hon. Ed Fast: Yes, I do.

There's nothing here that establishes how many members will be on that council, so effectively, it's the minister's discretion to appoint the members of the advisory council. It's possible, then, that you would have three Inuit who would be the council, right? I don't think that would be the intention. Correct...?

Mr. John Aldag: The intent is to have at least one from each of the three indigenous groups.

Hon. Ed Fast: I totally understand that, but there's no fixed number of members on the advisory council, so we have no assurance that it will be balanced between indigenous and non-indigenous. There's no guarantee here.

Mr. John Aldag: Correct.

Hon. Ed Fast: I think that's a problem. Before we move ahead with fixing indigenous representation on the advisory council, we should probably make sure there's going to be an appropriate balance and that we know what the numbers might be, whether it's nine or six, but at least we have to know. Based on this we know that there's an entitlement that our indigenous communities will have three members on there. We have no other idea as to how large this advisory council will be or who else will populate that council.

For that reason, I can't support this at this time, although I want to strongly speak in favour of having members of the indigenous community on this council. The proposal as it sits is fine, except it's being done in a vacuum of information, and it's strictly up to the minister to decide whether there's going to be a balance on that council or not. For that reason, I'm going to have to vote against it.

Mr. John Aldag: If I could just comment on the initial bill, it didn't specify that either, so this recommendation says that there will at least be three indigenous, so there's still that same level of discretion, but noting that three have to be indigenous.

Hon. Ed Fast: We're removing some of that discretion here.

Mr. John Aldag: Right, and with that, I will be voting yes.

(Amendment agreed to: yeas 6 ; nays 2 [See *Minutes of Proceedings*])

The Chair: We're now moving to LIB-59. Note that the original 59 is being replaced by a new 59.

Go ahead, Mr. Amos.

● (1630)

Mr. William Amos: I just want to confirm that everyone has LIB-59 in front of them. This goes specifically to the improvement of the regional and strategic assessments as tools for taking into account cumulative impacts, those impacts that go beyond any one specific project. We heard a great deal from stakeholders about how to ensure that rigorous assessments are achieved and that their findings are used not just in the context of that project but in subsequent projects. I think that's one of the key aspects of these regional and strategic impact assessments. This amendment is intended to build on existing provisions related to RIAs and SIAs by requiring the minister's advisory council to make recommendations on priorities for these assessments and by requiring the minister to respond to those priorities.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 6; nays 2 [See *Minutes of Proceedings*])

The Chair: Now we move on to LIB-60, and if we vote for this, it will apply to LIB-62, as LIB-62 is consequential.

Mr. John Aldag: We've discussed this one before. It's the expansion of traditional knowledge to specify indigenous knowledge.

The Chair: LIB-62 is the same thing.

Ms. Linda Duncan: I have a question on this, and we were going to run into this because of the decision by the Liberal members to do this. It's my understanding that the claim of confidentiality rises because it is traditional knowledge. It's about the ceremonies. It's about where the traplines may be, where the burial sites are, and so forth. It's not just any indigenous knowledge, so I think it has been extremely widened now.

Does that mean then that the panel is going to have to do a ruling on every single bit of information, testimony, and evidence that any indigenous person provides to this review?

The Chair: Go ahead.

Mr. John Aldag: There are other amendments being put forward that deal with confidentiality, and I believe you'll see that this is addressed in subsequent amendments.

Ms. Linda Duncan: How are they going to do this?

The Chair: I don't want to start jumping all over the bill, so—

Ms. Linda Duncan: That means that for any testimony, any information, any evidence by an indigenous government, community, or individual, we're going to make a decision in advance on whether every aspect of their intervention is going to be given in confidence.

The Chair: That's not what it says.

Ms. Linda Duncan: That's what it says, because it's no longer just traditional knowledge, it's all indigenous knowledge.

Mr. John Aldag: Can we ask the experts?

The Chair: Mr. Parker, did you want to speak?

Ms. Linda Duncan: I'm not necessarily saying I'm against it, but I don't know how they're going to do that.

The Chair: Let's see what the experts have to tell us.

Ms. Christine Loth-Bown: Proposed subsection 119(1) is the confidentiality provision. On line 18 it says "under this Act in confidence is confidential and must not knowingly be, or be permitted to be, disclosed", and then there are a number of different exceptions there, but the knowledge is confidential when provided. The exception is there.

Ms. Linda Duncan: How do you put together proposed subsection 119(1), which requires written consent, and then proposed subsection 119(2)? I'm not sure which one supersedes the other. Let's consider public. It says you have to have written consent on everything that represents indigenous knowledge that is provided to both parties.

The Chair: That's not the way I read that. I'll go back to the expert, because I'm not the expert and just get clarification there, because that's not what she just said.

● (1635)

Ms. Christine Loth-Bown: The information that's provided is considered confidential if identified as such by the individual, and there are a few reasons there that allow for exceptions, which are as follows: if the information is to be knowingly publicly available, if it's required for procedural fairness, or if the disclosure is authorized in those prescribed circumstances.

The Chair: Is that clear?

Okay, Linda, let's hear from Mr. Fast and then we can—

Ms. Linda Duncan: I think it was easier to deal with when it was just traditional knowledge, but it's going to be a huge task for indigenous intervenors now to to scrutinize the entirety of their intervention and clarify what is in confidence and what isn't.

The Chair: Fair enough.

Ms. Linda Duncan: Is that fair? I don't know.

The Chair: Mr. Fast.

Hon. Ed Fast: I have similar concerns, and I'm really on the same page as Ms. Duncan here, surprisingly.

Proposed paragraph 119(2)(b) is the saving clause for procedural fairness and natural justice, so any applicant is entitled to know information that is relevant to his or her project in order to provide them with an opportunity to respond. But if in fact this information is actually kept secret, how would the applicant even know that information is being considered that may be prejudicial to their interests?

I've raised this before as a serious concern. I fully understand that there may be circumstances in which an indigenous group will want to protect information to ensure that, for example, there isn't a disturbance of heritage sites or religious sites of significance. But it is absolutely critical that applicants have information available to them that would allow them to meet any challenge that the tribunal faces. It would be interesting to hear from our officials on how that procedural fairness will be guaranteed.

The Chair: Would you like to help us?

Ms. Christine Loth-Bown: Sure. As a matter of practice, under the current system there are cases in which there are concerns about the release of particular knowledge. Examples of this, which were brought up by another member earlier, would be cases involving a traditional hunting and fishing area, and not wanting to disclose that type of information. The agency will enter into discussions with both the proponent and the keeper of that knowledge, allowing the proponent to understand the nature of the information but not the specifics of it. We actually enter into discussions to see if there's a way to broker the information sharing without divulging the information in a way that could then make it unprotected in terms of its traditional or indigenous use.

Hon. Ed Fast: How would the proponent of your project even know there is some information that the decision-maker has upon which they will make their decision without some base level of disclosure?

Ms. Christine Loth-Bown: The basic parameters of the information are made available. When it's an agency-led assessment, a proponent will know the inputs. It's the specific details or the site location or the sacredness of the information that's thereby protected. In panel situations, information comes before the panel and then we have those closed-door discussions.

Hon. Ed Fast: Theoretically, if a project were rejected substantively because of traditional or indigenous knowledge, information that first nations have come forward with and want to protect, how would the proponent know that was the basis?

The Chair: I'm going to butt in because I think she's answered that question.

Hon. Ed Fast: No, she hasn't answered that question.

The Chair: She did.

Hon. Ed Fast: No.

The Chair: I thought—

Hon. Ed Fast: How would the proponent in those circumstances know that the decision has been based on traditional knowledge? Is there anything compelling the decision-maker to disclose it?

● (1640)

Ms. Christine Loth-Bown: Decisions are based on reports. A full report goes forward that's made publicly available, and all the information that was taken into the decision-making is disclosed in that public report.

The Chair: Just not the details.

Hon. Ed Fast: You understand that this is extraordinary, even though it may be justified, provided the right safeguards are in place. I'm not sure those safeguards are in place.

Ms. Linda Duncan: In proposed paragraph 119(2)(b), "for use in legal proceedings", that's by whom? Does that mean the Government of Canada can violate the confidentiality because a first nation has taken them to court? I don't understand what proposed paragraph 119 (2)(c) means. What are the "prescribed circumstances"? That's like a cannon hole through the whole thing.

Ms. Christine Loth-Bown: In proposed paragraph (a), obviously, it's that the information is publicly available. Proposed paragraph (b) is there because panel-type functions are allowed to call forward witnesses, just as courts are allowed to, so we need to make sure that, for procedural fairness, there is the ability to disclose the information so there are exceptions there. Finally, proposed paragraph (c) is if it's "authorized" in that particular "circumstance", so...may enter into a discussion with the individual having the knowledge in order to be able to disclose it and authorize the disclosure of it.

The Chair: I understand the concerns people have. I think we've had some reasonable answers to the questions. Now we need to call the vote.

We'll have a recorded vote.

(Amendment agreed to [See *Minutes of Proceedings*])

Mr. William Amos: I've already indicated the rationale underpinning the series of changes that have been proposed to achieve protection of indigenous knowledge in the context of assessments. LIB-63 seeks to build on just that. For efficiency's sake, I wonder if it makes sense to consider LIB-61, LIB-63, LIB-64, and LIB-65 together.

There's also a new motion. We could go one by one, but because there are four, this would save us a lot of time.

Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC): I'm sorry, Madam Chair. I'm new here and I would be completely lost if we try to do this. I would like to handle them one at a time.

The Chair: Right. Let's just do them one at a time.

Mr. William Amos: I would move to vote on LIB-61.

The Chair: Just so that you know, LIB-61 will apply to LIB-64 because that's a consequential amendment. Just look at LIB-64 when you're voting on LIB-61 because they tie together.

We're on LIB-61. We're going to do that other one in a minute.

Shall the amendment carry?

Mr. Scott Reid: I'd like a recorded vote, please.

The Chair: Okay. I'm going to want you to say that a little faster. I'm giving you the chance to get in your seat and get sorted.

We have a request for a recorded vote.

Ms. Linda Duncan: Amendment LIB-64 is written totally differently from LIB-61. LIB-61 says "a committee", which is probably correct. LIB-64 says "the committee". What's "the committee"?

● (1645)

The Chair: That's a fair question.

Let's have the specialists, the experts, comment.

Go ahead.

Ms. Christine Loth-Bown: Thank you.

The proposed amendment says "the committee".

The Chair: The other one says "a", so one is "a" and one is "the".

Mr. Scott Reid: Is it possible that what's happened is that the first reference is to "a committee" but after that, you're referring to the same committee, thus "the committee"?

The Chair: That's what I think is happening, and we're going to get the explanation.

Mr. Brent Parker: That second reference to "the committee" is referring back to the earlier one identified under "Regional Assessments and Strategic Assessments" in proposed sections 92 and 95.

The Chair: We have clarification.

Well done, Scott.

We were in the middle of a vote and it's going to be a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We have LIB-61 and LIB-64 passed.

LIB-62 was dealt with under LIB-60. That one's done.

Now we're moving on to LIB-63. If this one is voted on, it will apply to LIB-65 and LIB 65.1, which is just going around. Please make sure you have LIB-65.1 in front of you.

Mr. Scott Reid: Madam Chair, is the one that's just been handed out, LIB-65.1, intended as a replacement for LIB-65? Is that what's going on?

The Chair: No. There's LIB-63, and then you'll have LIB-65 and then LIB-65.1. They're all interdependent.

Ms. Linda Duncan: They're all changing proposed section 119. It would have been easier if they had just given us a new proposed section 119. We're just going line by line by....

The Chair: Fair enough, but over time it evolved. So here we go.

On LIB-63, we're looking at line 29, proposed subsection 119 (2.1).

Ms. Linda Duncan: We haven't voted on LIB-62 yet, have we?

The Chair: Yes. LIB-62 was dealt with under LIB-60. That was the consequential change that went with LIB-60. LIB-64 was the consequential change that went with LIB-61. Now we're doing LIB-65.1, which is a consequential change to LIB-65, and then LIB-63. It would be nice if it was all written out, but we have to make it work.

We have the three amendments. Does everybody have them in front of them?

[*Translation*]

Mrs. Sylvie Boucher (Beauport—Côte-de-Beaupré—Île d'Orléans—Charlevoix, CPC): The wording is not even in both official languages. It's only in English.

Mr. Olivier Champagne: The change is only in English in this case. The heading of the amendment in French clearly indicates that it is about the English version.

Mrs. Sylvie Boucher: Okay.

[*English*]

Mr. Scott Reid: Was what happened there that the two didn't line up? Were the French and English versions saying different things?

[*Translation*]

Mrs. Sylvie Boucher: That's what I don't understand. If a word is changed in English, it must also be changed in French, otherwise the meaning is altered.

Mr. Olivier Champagne: In French, "*destinataire*" corresponds to "person or entity". That is why we are making the change. I don't think there is a need to make any changes in French.

Mrs. Sylvie Boucher: I sit on the official languages committee and I know that when a word is changed in English, it usually has to be changed in French as well. Otherwise, the two versions are not the same.

● (1650)

[*English*]

The Chair: Let's have the experts.

Go ahead.

[*Translation*]

Mr. Jean-Sébastien Rochon: A change to subsection 4 would not be necessary. When reference is made to the "*destinataire*", it is to the "*destinataire*" referred to in subsection 3. However, subsection 3 clarifies that the "*destinataire*" refers to "*personne ou entité*".

Mrs. Sylvie Boucher: Okay, you're talking about the French version.

Mr. Scott Reid: The French version uses the word "*destinataire*".

Mrs. Sylvie Boucher: My understanding is that the term had to be changed in English so that the wording or the idea is the same.

[*English*]

The Chair: It has a different—

[*Translation*]

Mrs. Sylvie Boucher: Is that correct?

[*English*]

The Chair: Yes, they're saying that they didn't need to change it in French. It covers both.

Mrs. Sylvie Boucher: Thank you.

Ms. Linda Duncan: I have a question. I see new proposed subsection 119(2.1) basically nullifying proposed subsection 119(1), because proposed section 119(1) is clear. It cannot be disclosed without written consent. Under the new proposed subsection 119 (2.1), we're going to bring everybody together. In other words, as long as we consult you, we're going to nullify your consent.

If this relates to proposed paragraph 119(2)(b), which is for legal proceedings, why would the minister, the agency, the committee, or the review panel have any say whatsoever?

Once you're into litigation, you're before the courts. Surely you don't go back to the agency or the panel and deal with whether or not this information can be disclosed. It doesn't make any sense to me.

The Chair: Let's have the experts.

Ms. Christine Loth-Bown: It's further to what I explained earlier. Proposed paragraph 119(2)(b) exists because panels are considered to have the functions of courts as they can call witnesses together, in particular when they're working jointly with the life-cycle regulator to be able to meet the conditions of permits and things.

Ms. Linda Duncan: That's not my issue. Legal proceedings are outside of the review process. That's what a legal proceeding is.

Ms. Christine Loth-Bown: In this context, it's not a court proceeding as you're interpreting it. It's that the panels are able to call witnesses forward.

As I articulated earlier, if they are calling forward that information, first and foremost, in proposed subsection 119(1), the information is treated as confidential. Then in proposed paragraphs 119(2)(a), (b), and (c), it is noted where there is an exception to proposed subsection 119(1) and lays out the parameters for those exceptions.

As I explained earlier, what's being proposed here in LIB-63, new proposed subsection 119(2.1), is to ensure in the example—as I said —that, if there is going to be information disclosed, the parties are brought together to have a discussion with respect to that.

Ms. Linda Duncan: That's fine, but legal proceedings are legal proceedings, so it's way too broad a provision.

Legal proceedings, I think anybody would say they're in court. If you just said "in the proceedings of the assessment", that's different, but I interpret "legal proceedings" as including those in court.

Ms. Christine Loth-Bown: I'll turn to the Department of Justice to explain the drafting of this.

Mr. Jean-Sébastien Rochon: Thank you.

Further to the explanation provided by Madam Loth-Bown, with new proposed subsection 119(2.1), the consultation that would take place would be that, whenever the information or indigenous knowledge is received in confidence, it needs to be provided for the purposes of "procedural fairness". That's not the other half of proposed paragraph 119(2)(b) but the first half, which deals with "procedural fairness" in the context of the impact assessment. The other half, civil proceedings, is not being consulted on because that would be directed by the rules of court that are applicable in whatever legal proceedings this information may become relevant subsequently.

Therefore, new proposed subsection 119(2.1) is applicable only to "procedural fairness" in that moment related to the impact assessment.

Ms. Linda Duncan: It doesn't say that.

The Chair: Linda, you might not agree but the experts have given us their opinion and I'll take that.

Ms. Linda Duncan: It doesn't say that. Legal proceedings are legal proceedings.

The Chair: I understand what you're saying, but we've heard the advice of the experts. On this one, I'm going to move on.

We're going to take a vote. To be clear, we're doing LIB-63, LIB-65, and LIB-65.1.

Mr. James Bezan (Selkirk—Interlake—Eastman, CPC): Can we have a recorded vote, please?

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

● (1655)

The Chair: That passed. We're going to move on.

Mr. Fisher, LIB-66 is yours.

Mr. Darren Fisher: Madam Chair, this is another housekeeping amendment to ensure that a notice of non-compliance under the IAA can reflect any amendments that may have been made to a decision statement.

If you look at line 23 on page 67, you'll see that this would replace "condition established under section 64" with:

> condition established under section 64, amended under subsection 68(1) or added to a decision statement under that subsection,

It doesn't include conditions that may have been amended as a part of the minister's power under section 68 to amend a decision statement.

The Chair: Thank you, Darren.

Shall the amendment carry?

Mr. Darren Fisher: I'd like a recorded vote, please.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're moving on to NDP-62 and page 71.

Ms. Linda Duncan: At the provincial level, because the courts are clogged, because many of the parties to these reviews would prefer to just sit down and work it out, the tribunals have incorporated alternative dispute resolution—or ADR—in their processes, and that is exactly what is being proposed here, "with the consent of the parties". It requires the consent of the parties who want to do the ADR to refer part of the review to ADR.

Rather than going to the courts and arguing about some provision of what is proceeding, it would be possible for the parties to enter into an agreement to go into ADR. It's not binding, but a review panel could take into account the results of the ADR and include that in recommendations or in their decision. The review panel must make the results of the ADR public subject to the consent of the parties, if it's going to be included in their ruling.

This was recommended as the bill should recognize and strongly encourage informal opportunities for participation that involve two-way dialogue and discussion, including the undertaking of mediation and other forms of alternative dispute resolution. Quite often what can happen is that if there's something highly contentious.... Well, you have a tribunal, but in this case, you might have a panel or even the agency doing the review, and they may say that if the parties think they can go off and resolve it and then come back with a resolution, they potentially will incorporate that. I think it's a sensible way to go. It seems to be the way most jurisdictions are going.

The Chair: Okay. That sounds reasonable. Shall the amendment carry?

They're not calling a recorded vote, so all those in favour...?

Mr. Scott Reid: No, we are going to actually ask.... I was taking a moment to find out from the higher-ups whether we wanted to be recorded as being in favour or against.

The Chair: You want a recorded vote on all of them.

Mr. Scott Reid: We do.

The Chair: Okay. Let's go.

(Amendment negatived [See *Minutes of Proceedings*])

● (1700)

The Chair: We're on to PV-78.

Ms. May.

Ms. Elizabeth May: Thank you very much, Madam Chair.

I'm sorry that I missed some of my amendments due to clause-by-clause on Bill C-74.

This amendment is very straightforward. It's moving in....

I know there have been sympathetic amendments that are similar from Liberal members, but in order to incorporate UNDRIP properly, the agency's object "to engage in consultation with the Indigenous peoples", this is added on page 77 between lines 35 and 36. It's to consult with the Indigenous peoples, not just with the reference to section 35 of the Constitution Act but specifically with a direct reference to the United Nations Declaration on the Rights of Indigenous Peoples.

The Chair: We've had this a few times and we've discussed it.

Mr. Scott Reid: Can I ask a question, though?

The Chair: Yes, go ahead.

Mr. Scott Reid: It's making a reference to section 35. Surely that means it's already covered, in the sense that anything that is procured by section 35 is automatically entrenched de facto in the Constitution. Hence, there's no possibility that you could legally do this if it's in violation of section 35.

Is that not correct?

Ms. Elizabeth May: That's correct.

That's why my amendment expands it to what the government says it will want to do, which is to also respect the United Nations Declaration on the Rights of Indigenous Peoples.

Mr. Scott Reid: I see. Got it.

Ms. Elizabeth May: It's awfully nice to see you at committee, Mr. Reid.

Mr. Scott Reid: It's always nice to see you.

Ms. Elizabeth May: Thank God there's someone here for a Harry Potter reference if one is appropriate.

Mr. Scott Reid: I'm always available.

The Chair: Let's get back to work.

PV-78 was an error. We had actually voted against it before.

Ms. Elizabeth May: I thought so, but I didn't—

The Chair: It did not pass, and we are now moving along.

We're now on NDP-63.

Ms. Linda Duncan: This adds two new paragraphs, on page 78 after line 9.

Here we're dealing with the agency's duties. It would add in the duty to "track compliance with monitoring and reporting obligations with respect to the follow-up programs"—the Liberals like that term —"and report annually on the matter, including on aspects of follow-up programs that are under the control of other jurisdictions".

Secondly, it would add:

> ensure that lessons learned about the accuracy of the predictions made during past impact assessments are shared with the public and brought to the attention of those involved in relevant future impact assessments under this Act.

Clearly the agency should be responsible for tracking compliance. We've added this whole part about enforcement and compliance, so it seems logical that it would be the agency that would track and report on that.

There have been ongoing concerns by the public that when conditions are attached, there is no follow-up and no reporting on whether those are being delivered on. It would require reporting annually on what's happening with compliance with the conditions, and to report about resulting actions in terms of adaptive management of the approved project.

There you go.

The Chair: Shall the amendment carry?

Mr. Scott Reid: I am opposed.

The Chair: Wait a minute. If you want to record it, you have to call for a recorded vote.

Mr. Scott Reid: Please, I would like a recorded vote.

The Chair: We'll have a recorded vote, and I'm not reminding anybody again. I think I've done it enough times. Between the three of you, figure it out.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: All right, that did not pass.

We're going to take a five-minute break. We'll suspend for five minutes to take a nutrition break.

• _____ (Pause) _____ •

• (1720)

The Chair: We'll resume.

We were at NDP-64.

Ms. Duncan.

Ms. Linda Duncan: This one, at line 12 on page 78, gives clear legislative direction to the agency to consult indigenous people who are affected by the project. It prevents an ad hoc approach to consultation.

This was raised by a number of first nations. They thought it was important enough to make the point that it is not sufficient simply to say consult with indigenous peoples. It must specify "that may be affected by the carrying out of the designated project".

The Chair: It's adding an extra bit on to proposed paragraph 156 (1)(a).

Ms. Linda Duncan: A perfect example is Site C.

The Chair: Fair enough.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

Ms. Linda Duncan: I guess first nations in Alberta and Métis will continue not to be consulted.

The Chair: We're on LIB-67.

Mr. John Aldag: The essence of this amendment is that it would allow the impact assessment agency of Canada to establish monitoring committees in addition to other types of bodies. It's something we've heard from stakeholders in terms of the importance of effective follow-up and adaptive management for projects.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're on LIB-69.

Mr. Amos.

Mr. William Amos: In the context of further amendments to improve the regional assessment system, in LIB-69 we're suggesting in response to stakeholder concerns that we ensure rigorous assessments are done and their findings are used.

We had stakeholder comments around this issue of allowing assessments to benefit from expert advice. This is going to enable expert advice in the context of regional and strategic assessments.

● (1725)

The Chair: Okay, so it's setting a context.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're on to Ms. May's PV-79.

Ms. Elizabeth May: Madam Chair, this amendment occurs on page 78, at line 31. Again, this is based on evidence that came to us through the Assembly of First Nations. In reference to the appointment of people with relevant knowledge or experience on an expert committee, proposed subsection 157(2) says:

> The membership of the committee must include at least one Indigenous person.

My amendment would ensure that it include "one indigenous person who is a member of a First Nation, one Métis person and one Inuit person". In other words, these are not in the alternative. This is an amendment to ensure that there is an indigenous person representing southern first nations, the southern part of Canada; one Métis person; and one Inuit representative or Inuk member on the panel.

The Chair: Go ahead, John.

Mr. John Aldag: We've heard from indigenous peoples and organizations that have given us a range of comments on the ways that this bill can support reconciliation. It's important to note that we're looking at how we can address calls for a distinctions-based approach. The intent would be to ensure key committees, including the impact assessment agency's advisory committee on the interests and concerns of indigenous peoples, include members who can represent the interests of first nations, Inuit, and Métis peoples.

We have other motions that speak to that, but I just want to get that on the record.

The Chair: Mr. Reid has asked for a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on amendment LIB-70.

Mr. John Aldag: This amendment does what I was just speaking to in that this is one of those amendments that bring forward the distinctions-based approach by ensuring that the impact assessment agency's advisory committee will address calls regarding the interests and concerns of indigenous peoples including first nations, Inuit, and Métis members.

The Chair: Mr. Reid has asked for a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We now move to amendment CPC-9. If it is adopted, amendments CPC-9.1 and LIB-71 cannot be moved as there will be a line conflict.

Mr. Scott Reid: Madam Chair, might I address this?

The Chair: Absolutely.

Mr. Scott Reid: This is my moment in the sun. I'm very excited.

As you can see, this is a bit more of a technical amendment that goes on for several paragraphs and would add several paragraphs into the bill. We're trying to provide additional clarity to the transition provisions, which are going to allow for greater predictability so that those who are advocating a new activity can adequately prepare for the environmental assessment knowing what the process is and not having to worry about a new process being switched out at some point in the future.

I do note the minister has indicated that he's looking for timelines that are predictable and reasonable for Canadian energy projects, so I would make the modest suggestion to my Liberal colleagues that this actually should fit in very well with their stated objectives. I think we all understand that investors do need to have shorter timelines and greater certainty to act. That's just how investors work. They go where they can get a predictable return. I think these are solid reasons for supporting this particular amendment.

● (1730)

Mr. Churence Rogers: Madam Chair, I think our amendments LIB-71, LIB-72, and LIB-73 will also address the objectives that Mr. Reid put forward, so we will be addressing those in our upcoming amendments.

The Chair: Fair enough.

Mr. Reid would like a recorded vote on CPC-9.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: We move to amendment CPC-9.1.

It's back to you, Mr. Reid.

Mr. Scott Reid: This one was proposed by our colleague from Dauphin—Swan River. What can I say? I think this one just speaks for itself.

The Chair: That made that very easy.

Mr. Scott Reid: Of course, we want a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We're now on to LIB-71, which is a new version, so the old one comes out and the new version goes in.

Maybe we can have Mr. Rogers, while that's being handed out, point out what's different.

Mr. Churence Rogers: Madam Chair, LIB-71, LIB-72, and LIB-73 address transition provisions. They provide for consistent transition measures across the three acts. Clearly there is a need for certainty around which environmental assessments currently under way would continue under the current legislation and which would follow the new process and requirements. We've heard from a number of the stakeholders that the subject of the bill could be improved and I am proposing these three amendments.

This one in particular, LIB-71, would increase certainty by establishing an objective criterion: the notice of commencement for determining which projects will continue under CEAA 2012. LIB-71, with its long detailed information, is pretty self-explanatory in terms of achieving these objectives.

● (1735)

The Chair: The difference between the old one and the new version is a slight difference in proposed subsection 181(4), right?

Mr. Churence Rogers: Yes.

The Chair: It's a little bit of a longer version than the short one, which is "Despite subsection (1), at the request of the proponent". We now have "Despite subsection (1), at the request of the proponent of a designated project referred to in that subsection that is made within the 60 days after the day."

Mr. Darren Fisher: Can we put the three together if they're close enough?

The Chair: I think we'll do them one at a time.

Ms. Linda Duncan: I have a question about this. I know that industry is concerned about the transition period, but presumably the former agency isn't going to exist anymore. There's going to be this whole new entity, so how do they deliver an assessment under the previous legislation when supposedly we have a whole new process? Does that mean the public will have less rights to participate? There are a lot of changes that the Liberals claimed are coming forward. I'd like to have an idea of how many projects we think this may apply to, and how we're going to make sense of the fact that they're revamping the system completely and creating a whole new agency. What happens to the old agency?

The Chair: Let's hear from the experts.

Ms. Christine Loth-Bown: Just to talk about the agency currently, the agency is currently operating assessments under the 1992 legislation, which is still carried forward, as well as the 2012 legislation. Therefore, the agency is quite familiar with operating under different pieces of legislation as we transition through. With the proposed transition amendments we are trying to ensure that any projects that still exist under 1992 that have been stale for more than three years would be limited. That would get us into a world of delivering under CEAA 2012 and the new proposed act should it be passed. That's first and foremost, that the agency has a lot of experience in operating under different legislative parameters based on projects.

Second to your point with respect to new features of this particular piece of legislation and how that relates to others, I just want to note that the interim principles that were put in place in January 2016 apply along with CEAA 2012 and that has added additional factors with respect to participation in indigenous consultation.

With respect to participation and other things, we are already undergoing practices to have open public participation under CEAA 2012 and there would be nothing precluding us from having those same types of things for others.

Ms. Linda Duncan: What about the provisions to do with the NEB and the CER?

Ms. Christine Loth-Bown: The transition provisions for the NEB and the CER are dealt with in another piece of legislation, but there's also a piece that says those projects that are currently being undertaken by the NEB and the CER under CEAA 2012 would remain under CEAA 2012 and would be completed under the existing legislation.

Ms. Linda Duncan: Except there won't be an NEB anymore.

Ms. Christine Loth-Bown: There are provisions within the proposed CER to transition the NEB and carry forward things. My colleagues can speak to that in more detail.

Ms. Linda Duncan: It's clear as mud. I didn't get an answer, though, on how many projects we think are going to—

Ms. Christine Loth-Bown: We've gone and looked at how many projects are currently in the system and we estimated where they may be. We're probably looking at approximately 30 projects.

Ms. Linda Duncan: Thirty projects.

The Chair: Mr. Reid.

Mr. Scott Reid: No, I think I've figured it out.

It was described as a slight addition. It's actually pretty substantial —

The Chair: Yes, it's pretty substantial.

Mr. Scott Reid: —but I don't have any comments on it.

The Chair: Okay, that's great.

Shall the amendment carry?

Mr. Scott Reid: I would like a recorded vote, please.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: On LIB-72, we have Mr. Rogers.

You were trying to lump them all, so I think you've already explained generally what you were trying to do.

● (1740)

Mr. Churence Rogers: Yes. The only comment I want to make was this one pertains particularly to the establishment of a review panel. Other than that, it's just the transition process again.

The Chair: Shall the amendment carry?

Mr. Scott Reid: I would like a recorded vote, please.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're on LIB-73, which is the other one you were doing, Mr. Rogers.

Mr. Churence Rogers: This one in particular supports the commitment that no project would be sent back to the beginning of the process. Again, it's in line with the other amendments in terms of the transition process.

The Chair: Shall the amendment carry?

Would you like a recorded vote?

Mr. Scott Reid: Yes, please.

(Amendment agreed to: yeas 5; nays 3 [See *Minutes of Proceedings*])

The Chair: We're on LIB-74, which is Mr. Fisher.

Wait a minute, we're into clause 3. We had one pending thing we were going to go back to, which was a definition. It was NDP-40.1, and it was to add the definition potentially into the beginning of that section.

Linda.

Ms. Linda Duncan: I have to find it again in all this.

The Chair: We'll figure it out.

Ms. Linda Duncan: If you have it there that would be helpful because I have so much paper here.

The Chair: I'm just looking. We're going to find it.

Ms. Linda Duncan: Was it "adaptive management"?

The Chair: Yes.

Ms. Linda Duncan: Is that NDP-40.1?

The Chair: It was your definition of "adaptive management", and you were going to stick it in at the beginning of that section. Do we have the page number?

Ms. Linda Duncan: Page 38, line 22.

The Chair: Thank you.

Yes, "adaptive management", because we added a change.

There was a request to basically go away and understand whether that definition was acceptable. I believe I had unanimous consent if it passes to insert it into this section of the bill.

There was unanimous consent to reserve the chance to do that, and now we have to decide. It's not to do it. It's to vote on whether we're going to do it. It was to give us that opportunity to go back. We reserved the right to go back, which we're doing now, to add the definition. The definition is as brought forward in amendment NDP-40.1.

Is that right, Linda?

Ms. Linda Duncan: That's correct.

My understanding, and the opinion I'm given, is that the way the rules were changed for committees, and then going back to the House, if you had an opportunity to bring forward the amendment at committee and chose not to, you could not bring it at report stage.

The Chair: We're doing it now.

Ms. Linda Duncan: That's what I'm saying.

This looks like the only chance.

The Chair: We're all good. We're on the page. Everybody has the definition in front of them.

Amendment NDP-40.1 would add that definition on page 38, line 22.

Shall the amendment carry?

Mr. Scott Reid: I would like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are now at the end of clause 1.

Shall clause 1 as amended carry?

Mr. Scott Reid: I would like a recorded vote.

Ms. Linda Duncan: On division.

The Chair: If it's a recorded vote, Linda, it supersedes on division. Once they call a recorded vote, on division doesn't work.

(Clause 1 as amended agreed to: yeas 5; nays 4)

The Chair: There are no amendments to clause 2.

Mr. Scott Reid: I would like a recorded vote.

(Clause 2 agreed to: yeas 5; nays 4)

(On clause 3)

The Chair: The first one up is amendment LIB-74.

● (1745)

Mr. Darren Fisher: Madam Chair, I think everyone has the amendment in front of them, so I don't think I have to read it.

The amendment would directly address the stakeholder concerns by enabling joint assessments with provinces, territories, and indigenous jurisdictions. At the same time, it would ensure that joint panels are not established with federal life-cycle regulars. It provides that legal clarity that the minister cannot enter into an agreement with another federal authority for review panels.

The Chair: Shall we have a recorded vote?

Mr. Scott Reid: Yes, please.

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

(Clause 3 as amended agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

● (1750)

The Chair: Next is clause 4, and we'll have a recorded vote.

(Clause 4 agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*)

The Chair: Next is clause 5.

Mr. Scott Reid: We'll have a recorded vote, please.

(Clause 5 agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*)

(On clause 6)

The Chair: Clause 6 is still on page 88. It's at line 21.

We are on LIB-75. Mr. Rogers, you're up.

Mr. Churence Rogers: Madam Chair, again, this has to do with timelines and trying to provide more timely assessments. This particular amendment would support timely assessments by setting a clearer timeline for establishing review panels. Everything else, I think, is pretty much self-explanatory.

The Chair: We'll have a recorded vote.

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

We are now on PV-80. Ms. May.

Ms. Elizabeth May: Madam Chair, I want to briefly review the concerns that have been expressed by many. We also had the expert panel on environmental assessment, which recommended that energy regulators did not have a role. They were not referenced as having any future role or expertise that's useful to environmental assessment in the very substantial and thorough report prepared by the expert panel on EA that the federal minister commissioned.

My own personal concern, I have to say, just based on years of work in the Maritimes, is that it really matters that the Canada-Nova Scotia Offshore Petroleum Board and the Canada-Newfoundland and Labrador Offshore Petroleum Board have a legislated mandate. In fact, they have an affirmative duty to expand offshore oil and gas. That's their mandate. It comes out of the accords that were negotiated between the federal government and those provinces.

In this case, I'm deleting the sections that say the roster for an environmental assessment should include people appointed from the membership of the Canada-Nova Scotia Offshore Petroleum Board. I don't know how those people could do the job they are supposed to do on impact assessment without prejudging the outcome when they have a legislated mandate in the body they serve to expand offshore oil and gas.

I think it's not personal to those individuals. It's not about the agency's record. It's just a legal fact that these entities have a statutory conflict of interest, which has not yet been removed. They could have removed it in the context of this legislation, but it was not removed. Of course, the reason it could not be removed easily is you would have to go back and revisit the accords between the federal government and the provinces.

I'm explaining this more for my friends at the end of the table who I know are new to this discussion. It is mind-boggling that this would be proposed, that members of a board that has a mandate to expand offshore oil and gas would be required to serve on panels to decide if it should go ahead or not.

● (1755)

The Chair: Okay. We certainly heard a lot about that.

Go ahead, Mr. Aldag.

Mr. John Aldag: I would note that we've already touched on this in two of our Liberal amendments, LIB-30 and LIB-33, and we have upcoming Liberal amendments LIB-76 and LIB-78 that we feel address the issues Ms. May has raised.

The Chair: I'm going to ask if the amendment shall carry.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): I want to speak to this.

The Chair: Garnett, you may not know the rules, but we've really run out of discussion time on—oh, on this clause we haven't.

Go ahead. You have a short period of time.

Mr. Garnett Genuis: Can you clarify, then, for those who are new, what the rules are? My understanding is that people have unlimited time to speak to things, but you may have passed a programming motion.

The Chair: You have five minutes for each clause, which means anything you use on this one you take away from the rest of the discussion on the clause.

Ms. Elizabeth May: Per party.

The Chair: Not per amendment, but per party.

Ms. Elizabeth May: Per clause, per party.

The Chair: Just be mindful of how much time you're using, because you will be taking it away from everyone else on the rest of the clause discussion. Okay?

Mr. Garnett Genuis: Okay. If there is another amendment that relates to the same clause, then any time we've used is not—

The Chair: Correct. You have a total of five minutes.

Mr. Garnett Genuis: Okay. That seems like a strange approach, but I guess I'm new to this.

The Chair: Actually, it was a lot of work.

Mr. Garnett Genuis: I understand, but the bottom line is that, when you have such an extensive and omnibus bill, you would think a committee would be the one place where you actually have the time to have that discussion. That seems like the point of a committee, in a way, that you can dig into it.

The Chair: Garnett, I have been very generous. You haven't been here, so you wouldn't know that. We are way past those rules, but I am going to be strict if we are just repeating ourselves.

What do you have to say on this particular one?

Mr. Garnett Genuis: I will go ahead and say my piece and won't go longer than I need to, but I think the issue here is that it's important that on any of these boards you have some kind of structure that ensures a balance of perspectives. The existing provision, when it talks about having people who have some connection, some affiliation, in terms of supporting the development of those resources, says at least two of the persons.... I think it establishes a certain proportion within that, but that still creates an opportunity for balance to be achieved in other ways.

On that basis, I don't see the need for what's been proposed. I think it makes sense as it is.

The Chair: Okay. That's great.

Shall the amendment carry?

You want a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to LIB-76.

We had a subamendment to the amendment. What are we going to do?

Mr. John Aldag: The subamendment was withdrawn.

The Chair: We're on LIB-76, okay.

Mr. John Aldag: The essence of this one is simply that the amendment addresses the concerns the different stakeholders raised by retaining a role for life-cycle regulators while also ensuring that panel membership is balanced.

● (1800)

The Chair: We've had a discussion on this before.

We'll have a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We are now at the end of this clause.

Mr. Scott Reid: We'd like to have a recorded vote on that, if we could.

(Clause 6 as amended agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

(On clause7)

The Chair: If I have it right, clause 7 is on page 89, at line 9.

We're at LIB-77.

Mr. Rogers.

Mr. Churence Rogers: Again, Madam Chair, this simply has to do with timelines and would support timely assessments by setting a clear timeline for establishing review panels.

Mr. Scott Reid: Haven't we gone past LIB-77?

The Chair: No, we did LIB-76, unless I'm....

Ms. Linda Duncan: We voted twice on LIB-76, I think.

The Chair: No, we did clause 6. We did LIB-76, and then we did clause 6, and now we're on clause 7.

Mr. Darren Fisher: You voted for clause 6.

The Chair: We're on LIB-77. It's okay. There's a lot going on.

We had an explanation for LIB-77.

We'll have a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're now moving to PV-81.

Ms. May.

Ms. Elizabeth May: Madam Chair, this one has an identical rationale to the one I put forward earlier in that this now applies to saying that we will delete the sections that say you must appoint from the roster on review of offshore drilling in an area that's otherwise regulated by the Canada-Newfoundland and Labrador Offshore Petroleum Board.

The same rationale applies, so I'll just use the quick opportunity to respond, and I appreciate what Mr. Aldag's comments were, that Liberal amendments are in the same ballpark. They don't eliminate my concerns. They moderate them. They make a really horrific thing less horrific, but I will go to my grave never understanding why the Liberals ignored the advice of the expert panel and told us they were going to do one agency and then injected the very same regulators from Bill C-38, who have been so offensive until today, to have any role at all.

I don't know when my grave will greet me, but as this goes on, it seems to me it should be soon.

In any case, I've said my piece. This is to remove members of the Canada-Newfoundland and Labrador Offshore Petroleum Board and their embedded conflict of interest from the roster of participants in impact assessment—

The Chair: I'm hopeful that we'll have many decades before your grave sees you.

Mr. Churence Rogers: Madam Chair, I totally disagree with my colleague across the way. The industry in the province, and the people involved in running the industry in the province, and the work that they've done, they have a lot of experience, both federal and provincial. I understand some of the concerns that Ms. May may have, but I totally disagree with some of her comments.

The Chair: Okay, that's fair enough.

Mr. Reid.

Mr. Scott Reid: I have a question. I assume the point is to put people who have a certain kind of expertise in there. If the concern is that the two individuals are being appointed from this roster, couldn't you achieve the same goal by having them serve in an ex officio capacity, where they're present but aren't necessarily actually voting? Wouldn't that resolve both the government's concerns and Ms. May's concerns?

The answer's yes? Okay.

● (1805)

The Chair: There's a way to do it. There's the potential to bring an amendment from the floor if you wish to do so.

Mr. Scott Reid: I guess we'd have to deal with this first because she's eliminating. Maybe I'll try doing that immediately afterwards.

The Chair: Sure, there's also a Liberal one that you can look at, too, which is coming up.

Ms. Linda Duncan: I want to reiterate the comments by Ms. May. I'm repeatedly stunned that we spent a lot of money on two expert panels travelling the country hearing from everyone, and then, at clause-by-clause, we are completely refusing to take the advice from the expert panels.

This is another one. The same issue that we had with the NEB, we have with this panel. They promised they would have independent review bodies. Why on earth are we appointing more advisory bodies in here? Are we going to ignore their advice, too? I find it very disappointing. It was a very impressive expert panel, and they recommended against this. I agree with Ms. May.

The Chair: We're going to deal with amendment PV-81.

Mr. Scott Reid: Can we do a recorded vote?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

Mr. Scott Reid: Madam Chair, I'd like to propose an amendment.

The Chair: Hold on. I have to make sure.... What line are you amending?

Mr. Scott Reid: I'd be amending line 26 on page 89.

The Chair: Okay. Hold on a minute. Line 26 is under "Appointment from roster".

Mr. Scott Reid: Yes. The amendment would read, "must be appointed, in a non-voting capacity, from a roster", and everything else would remain the same.

The Chair: Is there any interest from the experts to chime in on what the implications of that may be or on how that works?

Go ahead, Mr. Labonté.

Mr. Jeff Labonté (Assistant Deputy Minister, Major Projects Management Office, Department of Natural Resources): If we understand the amendment right, it's suggesting that they would be non-voting, but the panels do not vote in any way, shape, or form. The panels provide recommendations to the minister or to the government. In this instance, they would be made to the government, to make a decision as to whether a project would proceed under the impact assessment act, and in this instance, the Canada-Newfoundland and Labrador Offshore Petroleum Board act. So there is no voting, if you will.

The Chair: That's why we ask experts. Thank you.

Mr. Scott Reid: Madam Chair, I'd like to respond to that.

The Chair: Mr. Reid, yes, go ahead.

Mr. Scott Reid: If it's more than one person, you have to come to some kind of consensus or have a vote. You have to have some kind of internal process to decide how to deal with disagreements, unless the panel is making a series of seriatim recommendations. Let's say you have five people and each one submits their own view, and you get this list of potentially disagreeing opinions. I don't see how one overcomes having an internal decision-making process, which is either consensus—we all have to agree—or it's a majority, or it's something else like two-thirds. Ultimately, there's some kind of ability to say yea or nay that gets counted. I don't see how you avoid that. Am I missing something?

The Chair: Mr. Labonté.

Mr. Jeff Labonté: The composition of the panel is determined by the Minister of Environment and Climate Change, from the roster, of which two would come from the petroleum board members who are on the roster. The balance would be chosen from the minister's roster, and that would be composed of the five people who are on the panel.

The inner workings as to how the panel develops its report and how it comes to its conclusions is the panel's responsibility, and it's not statutorily defined anywhere in the act.

The Chair: Okay.

Mr. Scott Reid: Right, but Madam Chair, it isn't defined but it would be defined if we put this in. There is nothing that prohibits us from defining it in the act. It's just that up until now we haven't chosen to do so. As I say, it may be bad policy—that's a reasonable argument—but it's not unlawful or contrary to the way the statute is supposed to work.

● (1810)

Ms. Christine Loth-Bown: With all due respect, if I understand the amendment correctly, it's not defining the panel and whether they are to vote or not; it's just saying that those two members wouldn't be voting. But as my colleague has pointed out, it's not a manner or a fashion in which the reports are generally developed. It is experts coming together to put together recommendations, and it's at their choosing how they arrive at the recommendations in that report.

The Chair: I have a list.

Ms. May, we're building the list.

Garnett, you're after Ms. Duncan.

Ms. Elizabeth May: I want to say that the plain, common-sense effort of my friend Mr. Reid is to appoint people ex officio. I think it's a bit incredible that our experts are telling us that people got it right. They don't sit there and all provide different information. One way or another, they come to a conclusion.

If we create this amendment that says these people are there, which is always the argument given by representatives who want to see that these energy regulators have a role, we understand that they have some sort of expertise. Surely, if they're in the room offering their expertise, the government rationale is completely met.

My concern that they are required by statute to promote the thing they are now supposedly reviewing impartially is significantly lessened if they're there ex officio. Perhaps the term "ex officio" is better than injecting the word "voting", since that's being taken to be a prescriptive assessment of exactly what a panel does when there are multiple people in the room writing a shared report. I have to agree with Mr. Reid. I can't imagine how else they would come to a conclusion if they're not prepared at some point to vote. Certainly, if they're ex officio they're in a different category, and that certainly would be preferable.

Ms. Linda Duncan: If my colleague would be willing to pull his amendment, I think a better way would be to put on line 30, after "natural resources", a comma, "and will serve ex officio".

The Chair: He's going to have to wait, actually, because—

Ms. Linda Duncan: Yes, LIB-70 is his amendment.

The Chair: Are you willing to do that?

Hold on. We have Mr. Genuis.

Mr. Garnett Genuis: I just want to ask a question of the officials, to be very clear about something.

What is the format in which this advice has been provided in the past? Is it one unified and agreed-upon piece of advice, or is it, "here is what I think, here is what this person thinks", a collection of different opinions?

Ms. Christine Loth-Bown: It's a panel report that goes through a summary of the information the panel has heard, as well as a summary of their findings, their recommendations, and the conditions they would like the minister or the government to consider in their decision-making and approval process.

Mr. Garnett Genuis: The existence of findings, recommendations, and conditions clearly implies some kind of either voting or consensus process, even though it's not articulated formally in the statute. Is that right?

Ms. Christine Loth-Bown: They develop their report as per terms of reference that are set by the Minister of Environment and Climate Change.

Ms. Linda Duncan: The answer is yes.

Mr. Garnett Genuis: Yes, I don't want to belabour the point, but is that a yes, as my NDP colleague said? Is that a yes that there is some kind of process by which...?

What happens if one of the five disagrees? Presumably they vote, right?

Ms. Christine Loth-Bown: The process is that they have terms of reference that are set by the Minister of Environment and Climate Change. They are required to prepare a report and submit that report.

Mr. Garnett Genuis: Has there ever been a case of somebody submitting a dissenting opinion as part of that report, somebody who is part of the panel?

Ms. Christine Loth-Bown: To my knowledge, I'm not aware of anything, but we can come back on that in the future if the committee chooses.

Mr. Garnett Genuis: In your knowledge, yes or no?

Ms. Christine Loth-Bown: I said no, in my knowledge.

Ms. Linda Duncan: Yes, there have been dissents.

The Chair: We have Mr. Rogers.

Mr. Churence Rogers: Madam Chair, I have to say, I'm surprised, even shocked, by the Conservatives' stance on some of this stuff, this amendment, and how they're throwing the CNLOPB under the bus as far as I'm concerned when it comes to this discussion. I understand where Ms. May and Ms. Duncan stand, but those guys, I'm shocked at their position on this. I have no intention of voting for that kind of an amendment.

The Chair: I understand Mr. Reid is willing to pull his amendment for the moment, so he's next.

Go ahead. We have yours coming in now, right at the end of line 30. You're suggesting wording that will come in at the end of "in consultation with the Minister of Natural Resources".

● (1815)

Ms. Linda Duncan: It will read, "Minister of Natural Resources, and will serve ex officio."

The Chair: All right. Do we all have "and will serve ex officio"?

Scott.

Mr. Scott Reid: I just want to confirm. Does "ex officio" mean you don't count for purposes of a quorum, but also that your votes don't count? Is that the way people are understanding it?

The Chair: Let's get an expert view.

Mr. Jean-Sébastien Rochon: I need just a minute or two to check my references on this, if you don't mind.

The Chair: We'll suspend for two minutes.

● ——————————— (Pause) ———————————

The Chair: We're going to resume.

Can we get some clarification on "ex officio" and whether that will do what they're intending it to do?

● (1820)

Mr. Jean-Sébastien Rochon: Thank you, Madam Chair.

The term "ex officio" might not achieve the purpose that's being proposed by the member. Ex officio refers to a situation whereby a person, by virtue of their function or their position in one instance, also acquires a function or a position in a different one.

For instance, the Minister of Justice is, ex officio, the Attorney General of Canada, as well as an ex officio member of the Law Society of Upper Canada. It doesn't have the exact same connotation.

The Chair: Can you suggest another term that would be appropriate to help Mr. Reid out?

Mr. Jean-Sébastien Rochon: In terms of legal Latin maxims, not that I have found, but we would probably need to look a bit more into what the intent is. I understand the issue is that the intent is for the board member not to vote. The board member may be nominated in an advisory capacity, and might not be working on the report. Perhaps that's what's being contemplated, but I'm speculating.

The Chair: Mr. Viersen is next, and then we're going to end this conversation.

Mr. Arnold Viersen (Peace River—Westlock, CPC): I was just thinking about the other committee I sit on, where there are two Liberal members who are members of the committee but don't participate. I'm not sure how the wording is on that one. Is that non-voting in that case?

The Chair: Yes, but we're back to the voting issue again, and we're trying to stay away from the voting issue. There was a suggestion, potentially, that it could be in a non-official capacity.

Mr. Scott Reid: Advisory capacity?

The Chair: An advisory capacity, if you want to say it like that.

It's really not up to me. It's your amendment.

Mr. Scott Reid: Right, but I do have to ask the question to make sure this can be done procedurally correctly.

Would it be possible then to remove the word that I had suggested be added in? Also, assuming that we don't put those words into line 30, but what we now say is that, on line 26, "two of the persons appointed under subsection (1) must be appointed, in an"—and I forgot what the word was....

The Chair: Advisory.

Mr. Scott Reid: "advisory capacity, from a roster".

Mr. John Aldag: Madam Chair, are we at the five minutes on this clause?

The Chair: Yes, we're done.

This is what we're voting on. It's an amendment that is going to go in at line 26, and it says, "under subsection (1) must be appointed, in an advisory capacity, from a roster established under paragraph 50 (d)".

It's inserting "in an advisory capacity" after "appointed".

Mr. Churence Rogers: Madam Chair, if I could interject here, we've already voted on the CNSC, CER, and the CNSOPB. Quite frankly, I'm shocked that the Conservatives would be advancing this, because this is a direct attack on the C-NLOPB from my perspective.

The Chair: I understand.

Mr. Churence Rogers: I think it's an affront to the C-NLOPB.

Back in Newfoundland and Labrador, folks are not going to be happy with the CPC that they would participate in this kind of an amendment. I fully intend to vote against it.

The Chair: Okay, I hear you, but we're just trying to get what it is that you're voting against. I think we have it clear. We're inserting the words "must be appointed, in an advisory capacity, from a roster established under paragraph 50(d)".

Shall the amendment carry?

Do you want a recorded vote?

Mr. Scott Reid: Please, yes.

The Chair: Mr. Reid, who were you voting for?

● (1825)

Mr. Scott Reid: Apparently I'm not on here because I was replacing him. He's back, so I have to replace somebody else.

The Chair: We have to be official.

When you're voting, it's really important. Are we all straight?

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: We're going to LIB-78.

Mr. John Aldag: Madam Chair, this one is very similar to LIB-76 that we've already discussed. It's simply ensuring that it respects this role for the Canadian energy.... They're the life-cycle regulators, but they don't have a majority of members on the panel.

The Chair: Okay. I think that's clear.

Shall the amendment carry?

Ms. Linda Duncan: I'd like a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: Shall clause 7 as amended carry?

It's a recorded vote.

(Clause 7 as amended agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: Shall clause 8 carry?

Hon. Ed Fast: I'd like a recorded vote.

(Clause 8 agreed to: yeas 8; nays 1 [See *Minutes of Proceedings*])

The Chair: Shall clause 9 carry?

Mr. Scott Reid: I would like a recorded vote.

(Clause 9 agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

(On clause 10)

The Chair: We're on page 90, at line 17.

We have LIB-79, from Mr. Amos.

Mr. William Amos: Madam Chair, this amendment has been discussed in an earlier context around the impact assessment act. It would simply seek to incorporate the United Nations Declaration on the Rights of Indigenous Peoples into the preamble of the Canadian energy regulator act. I think we've heard our honourable colleagues on the Conservative side indicate their disagreement with it, and the others with their agreement, and I would hope we could move swiftly to a vote on this.

Ms. Linda Duncan: I have a question on this.

The Chair: Mr. Fast is first and then you.

Hon. Ed Fast: Just to clarify, Madam Chair, Mr. Amos had suggested that perhaps we're not supportive. What we are is realistic in understanding that the United Nations Declaration on the Rights of Indigenous Peoples has not been interpreted in the light of our Constitution. We are supportive of applying UNDRIP in a manner that is consistent with Canada's Constitution as well as with current case law that addresses the issue of duty to consult. I want to be very clear on the record on that.

The Chair: Thank you very much. Just to be clear, I am keeping a clock on everybody.

Go ahead.

Ms. Linda Duncan: This is a question for Mr. Amos. Mr. Amos has a background in environmental law—he's a lawyer, the same as me—and would he not agree with me that it's nice to put it in the preamble, but it means it's not binding? Does he intend to be bringing this forward to also make it as a binding provision in the substance of the bill?

● (1830)

Mr. William Amos: Thanks for the question. The aspects of this bill that speak to binding requirements as regards indigenous peoples and any other aspect of the law are in the body of the law. The preambular integration, I think, is appropriate under the circumstances. One need not incorporate the declaration piece by piece by piece, provision by provision by provision. I think that would in any event render things more complex than it would enable, because at the end of the day, this bill has to be interpreted, and the full scope of the application of UNDRIP in Canadian law is not clear yet. We still haven't even passed it under Bill C-262. I think the most appropriate approach would be to deal with this in a preambular fashion.

Ms. Linda Duncan: So in sum, you do not intend to make it binding in part 2.

Mr. William Amos: As I said, there are many references—

Ms. Linda Duncan: It's okay.

The Chair: She doesn't want to use up her time or your time.

Ms. Linda Duncan: Through all of that, I got that the answer is no.

The Chair: Go ahead.

Mr. William Amos: As I said before, the integration of a variety of aspects and protections for indigenous peoples is coming across in any number of amendments that are being brought by our members. I believe there's been at least one brought by members of the opposition that we have also agreed to.

The Chair: Mr. Fast.

Hon. Ed Fast: Madam Chair, it's pretty rich for Mr. Amos to talk about UNDRIP when, in fact, he's had 15 occasions here at this table to incorporate UNDRIP into the body of this legislation, and each time he's voted against it.

The Chair: Okay, fair enough. I think we've had enough discussion.

Shall the amendment carry?

Mr. Scott Reid: I would like a recorded vote.

(Amendment agreed to: yeas 9 ; nays 0)

The Chair: That's unanimous.

Who is going to do LIB-80?

Mr. Aldag.

Mr. John Aldag: This is along the same line that we talked about with terminology being more inclusive, changing traditional knowledge to indigenous knowledge. That's where we are.

The Chair: We've been around this discussion for a bit.

Hon. Ed Fast: I would like a recorded vote, please.

(Amendment agreed to: yeas 9; nays 0)

The Chair: We're on a roll.

Next is PV-82.

Ms. May.

Ms. Elizabeth May: Madam Chair, as we move into clause 10, I think it's worth noting that we left the impact assessment act. In the context of an omnibus bill of three acts.... I'm losing track of how many hours, but there have been four meetings, and up to this point, we've covered 90 pages in approximately 12 hours. We now have two and a half hours left for the remaining 260 pages. I mark this for the record, because I do not think it was appropriate to put the Canadian energy regulator act, the Navigation Protection Act, and the impact assessment act in the same piece of legislation. I don't believe the responsibility for that lies with the people around this table, but I think it should be noted, because we're working through this bill, and we know that, despite best efforts by everyone around this table, we're not going to get through a proper review of two acts.

I will not take any more time, though, and just say that my amendment is to provide a definition of the United Nations Declaration on the Rights of Indigenous Peoples, because later amendments seek to reference it, so I want to make sure it's properly defined in the operative part of the act. I think it can help with the preambular part that we've just carried.

The Chair: For the record, there were numerous times that I asked to extend, start early, and add days, and that hasn't been accepted.

Ms. Linda Duncan: I suggested adding days. What days had you suggested?

The Chair: No, that was after, but not adding days in the interim during which we had to do the work. I just wanted that on the record.

Ms. Linda Duncan: I'm happy to add days. Let's come back on Wednesday and Thursday.

The Chair: There were many opportunities to have extra time, and they weren't taken.

Mr. Fast, go ahead.

Hon. Ed Fast: Madam Chair, I share the same concerns. We have said at this table many times already that the time frames that have been imposed upon this committee by the government, after the government had committed to not interfering in committee work, are unreasonable and much too short to deal with such a broad piece of legislation that incorporated, as my colleague just said, navigable waters, the Canadian energy regulator, and the impact assessment act all in one piece.

To short-circuit this by not giving this legislation the time required to get it right is, quite frankly, a disgrace. Canadians who watch and hear what's going on in this committee know that at the end of the day the result will be something that is highly unsatisfactory to pretty well everybody, both those in industry and those on the environmental side. Why? First, the number of witnesses who were allowed to appear at this committee was restricted to, say, 24 or 25.

● (1835)

Ms. Linda Duncan: It could have been.

Hon. Ed Fast: As well, over 400 amendments came forward, many of which came from the government members themselves. I think that in itself exposes the shallowness of this legislation and the fact that the fix was in and this was going to get rammed through no matter what. Notwithstanding the Prime Minister's protestations that somehow he was open to amendments, virtually every amendment this side has proposed has been voted down by the Liberal members of this committee. This whole process has been a sham.

I'm not pinning this on you, Madam Chair.

The Chair: No, that's fine. I understand.

Hon. Ed Fast: You're doing the bidding of people who are probably higher on the ladder than you are, and it's unfortunate that at the end of the day we're going to get something that will be highly unsatisfactory.

The Chair: I just want to say that we have been doing very well, and I've been giving the people the time they need to understand the different amendments. We've had a lot of amendments. Many of them have been similar, and while they may have been voted down on one side, they've been picked up in another version by another party. I'm just letting you know that there has been a lot of work by all three parties on this bill, and I've been giving a lot of time to try to make sure everybody understands.

I know we're running short. I tried several times to add some extra days, not at the end but in the interim. We could have had Mondays, or we could have had other days.

Hon. Ed Fast: We had other obligations, Madam Chair.

The Chair: I understand you have other obligations. That's the challenge, then.

Mr. William Amos: Madam Chair.

The Chair: I also had to extend days. Let's just leave it, then, and move on to the work, because we are actually taking time away from the work in the bill.

Linda, go ahead.

Mr. John Aldag: Will was ahead of Linda.

The Chair: I'm sorry, Will.

Ms. Linda Duncan: No, I had my hand up first.

Mr. John Aldag: No, he's been trying to get in for five minutes.

The Chair: Hold on, Linda. I have the list, and Will is next.

Mr. William Amos: Madam Chair, I simply want to state for the record that I find member Fast's comments to be offensive, and I would simply point to the fact that CEAA 2012 never went through a clause-by-clause study.

The Chair: Linda will speak, and then we will try to move back to the work of the bill.

Ms. Linda Duncan: I take offence to the suggestion that the committee has been flexible in adding days. I have already given up all of my responsibilities. I am the critic for another portfolio. I have not—

Hon. Ed Fast: You have higher standards—

Ms. Linda Duncan: Ed, excuse me.

Hon. Ed Fast: Go ahead.

The Chair: Go ahead. One member at a time.

Ms. Linda Duncan: I've been unable to deliver my other responsibilities in my portfolio because I am dedicated to trying to improve this bill.

A number of things that Mr. Fast said are a hundred per cent true. I've put the question to the minister many times. We've put the question to Minister Carr many times. We asked, "Will you be accepting amendments to this bill?"

In good faith, we worked diligently. The public worked diligently. First nations, Métis, and Inuit worked diligently. Industry worked diligently. Lawyers, law firms, and the law schools worked diligently. Yet every one of those amendments are being voted down, not even with consideration.

I find it absolutely astounding that this committee, which is essentially the environment and sustainable development committee.... We do not deal with the Navigation Protection Act. It was already reviewed by the transport committee. It would have made more sense for that part of this bill to go to that committee. They could have done an efficient review, having reviewed it already. We don't deal with the CER. That's the natural resources committee.

So here we are, and I think we went through fairly efficiently the review of the first part of the bill, which should have been our responsibility. We should be continuing this review. We should be giving due respect to all the people who participated, for two and a half years, when the government asked for input on reforming the NEB, reforming the Navigation Protection Act impact assessment. We are giving short shrift to the last two parts of this bill, and I find it absolutely outrageous.

● (1840)

The Chair: Linda, thank you.

We have two and a half hours. I'm hoping we can really get into the work that still needs to be done, so let's get to it.

Ms. Linda Duncan: Just for the record, I do not agree that this should be—

The Chair: I understand.

We are on PV-82. Let's move it to a vote.

Ms. Linda Duncan: Let's do a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're on CPC-10. Its a big one.

This amendment, and many others that follow the same logic, are consequential to CPC-25; therefore, a vote on CPC-10 will apply to CPC-16, CPC-25, CPC-27, CPC-28 to CPC-34, and CPC-42. There are a lot of Conservative amendments wrapped up in this one.

Who would like to speak to it?

Mr. Fast, go ahead.

Hon. Ed Fast: I'll gladly talk to it, Madam Chair.

The purpose of this amendment is to make a consequential word change to the French version of the definition section of the "Interpretation"portion of the act to account for changes made by amendment 9774628.

Effectively, that amendment removes the decision-making power given to the Governor in Council in the "Where certificate required" section of the "Designated Interprovincial Power Lines" portion of the act.

The Chair: Could you repeat that number?

Hon. Ed Fast: Yes. It is 9774628.

The Chair: That's CPC-25. That's the one I mentioned.

Hon. Ed Fast: Once the phrase "The Governor in Council" is changed to "The Minister", the French word for "order" must be changed.

Project proponents and investors need certainty if they're going to invest in Canada. There are some concrete timelines that the process needs to provide that certainty. As I have mentioned before, energy investment in Canada is fleeing our country because of the uncertainty.

The proposal that I've made is effectively cleaning up language on the French side. I don't think it should be in any way controversial.

The Chair: Okay. Just so everybody knows, CPC-25 is on page 384. That's consequential to that substantive amendment. CPC-16, CPC-25, CPC-27, CPC-28 to CPC-34, and CPC-42 all deal with the same subject matter.

Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote, please.

(Amendment negatived: nays 6; yeas 2 [See *Minutes of Proceedings*])

The Chair: That means CPC-16, CPC-25, CPC-27, CPC-28 to 34, and CPC-42 are defeated.

Now we have amendment PV-83, Ms. May.

Ms. Elizabeth May: Madam Chair, as I mentioned a moment ago, the amendment that I suggested for a definition of the UN Declaration on the Rights of Indigenous Peoples would be handy, because here at line 30 on page 93 we're in the section of definitions that relate to indigenous governing bodies, indigenous organizations, indigenous peoples of Canada, and so on. I'm inserting that "indigenous peoples" be referred to by both the Constitution Act and the Declaration on the Rights of Indigenous Peoples.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote, please, definitely.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We now move to LIB-81.

● (1845)

Mr. John Aldag: This is very similar to other discussions we had on the previous part of the bill. I don't think any further discussion is needed.

The Chair: Shall LIB-81 carry?

Hon. Ed Fast: I would like a recorded vote, please.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: Wonderful. That's unanimous.

Let's carry on. On PV-84, we have Ms. May.

Ms. Elizabeth May: Madam Chair, this is at page 96 and is dealing with the use of the term "traditional knowledge". I'm aware that when I submitted my amendment, the further work of the committee, at least when we were on the impact assessment act, was changing the words "traditional knowledge" to "indigenous knowledge". Also, earlier today, I was in clause-by-clause on the Fisheries Act, and similar amendments have been brought forward there. If anyone wanted to produce a subamendment to my amendment to make this "indigenous knowledge".... In any case, I can't amend my own amendment given the status I have on this committee of having to be here but having no rights.

This is essentially an effort to ensure that the traditional knowledge of indigenous peoples includes the concept of indigenous knowledge systems, as recommended to us in evidence from many witnesses, particularly the Assembly of First Nations.

Ms. Linda Duncan: I'm presuming you want to cross out "traditional" and put in "indigenous".

Ms. Elizabeth May: Yes.

The Chair: It's taking out "traditional" and putting in the word "indigenous".

On PV-84, shall the amendment be amended with "indigenous" rather than "traditional"...?

A voice: The subamendment—

The Chair: Yes. The subamendment is for "indigenous" instead of "traditional".

Hon. Ed Fast: I'd like a recorded vote.

Ms. Linda Duncan: I would have thought that they could include it in Mr. Bossio's. It's too bad.

The Chair: So that was no...?

(Subamendment negatived [See *Minutes of Proceedings*])

The Chair: The subamendment did not pass. Now we have to vote on the amendment.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on PV-85.

Ms. May.

Ms. Elizabeth May: Madam Chair, to distinguish this from other changes that may appear with similar wording, I'd like to stress that this alteration in my amendment, to include the United Nations Declaration on the Rights of Indigenous Peoples, occurs in the all-important proposed section 3, which sets out the rights of the indigenous peoples of Canada.

The current proposed section reads:

> For greater certainty, nothing in this Act is to be construed as abrogating or derogating from the protection provided for the rights of the Indigenous peoples of Canada by the recognition and affirmation of those rights in section 35 of the Constitution Act, 1982.

My amendment adds "and in the Declaration on the Rights of Indigenous Peoples."

The Chair: I think that's clear.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: We'll move to PV-86.

Ms. May.

Ms. Elizabeth May: Madam Chair, in PV-86, what I'm attempting to do is ensure that we inject into this bill the overwhelming importance of the climate crisis. At this point, the words "climate change" do not appear once in part 2 of this bill. In other words, they don't appear once in the part on the energy regulator. Given the government's formal commitment to reduce greenhouse gases—and there are new provisions in part 2, related to renewable offshore power lines that are certainly welcome—it certainly seems to be a disturbing gap that climate change isn't referenced.

What I'm proposing on page 97 at lines 21 and 22, and on the same page at lines 26 and 27, is secure language that ensures that as the government enacts this legislation and acts to deal with energy transmission issues, the Government of Canada is focused on its obligations and commitments with respect to climate change.

● (1850)

The Chair: I think that's clear.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to PV-87.

Ms. May.

Ms. Elizabeth May: Madam Chair, this relates to issues around the consultation with indigenous peoples. In the past, what we used to call—and I guess we still call it this until this act receives royal assent—the National Energy Board was found under various court decisions to have had significant lapses in its consultative process. Some examples are the Supreme Court decisions on the Clyde River case and on the Chippewas of the Thames First Nation case dealing with Enbridge. Of course, there is also the Enbridge decision in the Federal Court of Appeal related to the pipeline that was to have a terminal at Kitimat.

This amendment would reinforce the consideration of indigenous rights as a guiding principle throughout this proposed act, which is currently part 2 of Bill C-69, but will eventually, of course, be the Canadian energy regulator act. It's very consistent with the Truth and Reconciliation Commission's action item 92, which is to ensure that UNDRIP is part of the reconciliation framework.

It's in that spirit that I submit PV-87.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on NDP-65.

Ms. Linda Duncan: We are at line 31 of page 97. We would be adding in a new paragraph:

(e) to ensure that a healthy and stable climate is maintained for future generations.

This, as Ms. May has said, amends the purpose of the act to include dealing with climate change as part of the operations of the CER. As the Pembina Institute have said to us, "A 21st-century energy regulator must integrate climate change considerations throughout its functions and activities." They have also said, " This is necessary to ensure that we meet our commitments under the Paris Agreement and is imperative to protect Canada's long-term interests in a decarbonizing world."

As we hear the Minister of Environment and Climate Change say in the House ad nauseam, we must balance economic development and environmental protection, including taking action on reducing carbon. That is exactly what this provision does, to ensure that a healthy and stable climate is maintained for future generations in decisions by the CER.

The Chair: Mr. Fast.

Hon. Ed Fast: Madam Chair, I'd be very surprised if the Liberal members of this committee voted in favour. It has been made pretty clear by the United Nations and also by the Auditor General that this government will not be meeting its Paris obligations and that there's a huge gap.

I'll understand why the Liberals will not support this amendment.

The Chair: Shall the amendment carry?

Mr. Fast would like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

● (1855)

The Chair: We're now going to amendment LIB-82.

Mr. Fisher.

Mr. Darren Fisher: Madam Chair, this is another housekeeping amendment, which needs to be changed here. It was changed earlier in the document as well.

It takes line 29 on page 98 and changes it from "pipelines and abandoned offshore facilities;" to just "facilities;". Apparently it was changed in another part, but the drafters felt that it was an error that should still be corrected.

The Chair: If I understand this properly, it takes line 28, which says, "as well as abandoned" and then line 29, which says "pipelines and abandoned offshore facilities;" and we're taking out "pipelines and abandoned offshore" and just saying "facilities".

Mr. Darren Fisher: That's almost exactly what I just said.

The Chair: I was just making sure I got it right.

Shall the amendment carry?

Mr. Fast would like a recorded vote.

Ms. Linda Duncan: Can I just ask a question about that?

The Chair: Well, we're into the vote now.

Ms. Linda Duncan: A big controversy in my province is abandoned wells. Are you saying then also that the federal government would have responsibility for abandoned wells?

The Chair: It says abandoned facilities. It's a broader term.

Linda, we already started the vote, so let's finish the vote.

Ms. Linda Duncan: I guess it's going to be included. I'm happy to hear that.

(Amendment agreed to: yeas 9 ; nays 0 [See *Minutes of Proceedings*])

The Chair: Let's move along.

On amendment PV-88, go ahead, Ms. May.

Ms. Elizabeth May: Madam Chair, we're still in part 1 of the second part of this bill. The mandate for the Canadian energy regulator is being set out in bullet form.

With this amendment, I am suggesting an insertion, proposed paragraph (d.1), such that the mandate of the Canadian energy regulator include:

> (d.1) ensuring that decisions, orders, and recommendations referred to in paragraphs (a), (c) and (d) respect the Government of Canada's environmental obligations, its commitments in respect of climate change, and the rights of the Indigenous peoples of Canada as recognized and affirmed by section 35 of the Constitution Act, 1982 and by the Declaration on the Rights of Indigenous Peoples;

It's an extremely helpful subset of the kind of framework for decision-making that our energy regulator should have in the 21st century, in that it's mindful of indigenous rights, mindful of environmental obligations of the Government of Canada, and mindful particularly of its climate obligations.

The Chair: Shall the amendment carry?

Mr. Fast would like a recorded vote.

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: We now move to amendment NDP-66. Just to be clear, amendment PV-89 cannot be moved if this is moved, because there will be a line conflict.

Linda.

Ms. Linda Duncan: We're at the same place in the bill, page 99, line seven.

The proposal is to replace clause (e) with the following, so that the regulator's mandate would include:

> (e) advising and reporting on energy matters, including renewable energy, energy efficiency, the impacts of the production, distribution and use of energy on climate, the impacts of a changing climate on the production, distribution and use of energy, as well as Canada's transition to a low carbon economy;

Again, this was brought forward by the Pembina Institute. As they stated, the regulator right now does not have any explicit mandate to report or advise on Canada's supposed transition to a low-carbon economy. It's just the same old, same old oil and gas, etc. They also add that accurate reporting on the impacts on climate from the production, distribution, and use of energy will help Canada meet its international commitments on climate.

What this is doing is moving the Canadian energy regulator into the 21st century and beyond by actually finally defining energy as more than fossil fuels.

The Chair: Shall the amendment carry?

● (1900)

Mr. Martin Shields (Bow River, CPC): I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1)

The Chair: We're on PV-89.

Ms. May.

Ms. Elizabeth May: Madam Chair, at first blush, my amendment may look to be virtually identical to the one you just defeated, but it does include other concepts, which is, of course, why it would have merely been a line conflict had the NDP motion passed.

My proposed subparagraph (e) for the mandate of a CER includes to advise and report not only on energy matters, including renewable energy and energy efficiency, but also on how we're doing in reducing carbon, and what the climate impacts are related to production, distribution, and use of energy and the impacts of a changing climate on the very industry that is being regulated.

This takes, in my view, the Canadian energy regulator into a mandate that's much more similar to what we get from the International Energy Agency. That agency provides useful information for world governments on the topics that you see here. I think it would really strengthen the Canadian energy regulator were it doing the same kind of analytical work that we get from the International Energy Agency.

The Chair: Linda, did you want to say anything on it?

Ms. Linda Duncan: I don't see anything different.

The Chair: Mr. Amos.

Mr. William Amos: Madam Chair, I definitely appreciate the direction in which our colleague is bringing us. Liberal amendments LIB-101, LIB-106, and LIB-111 each engage the climate issue, ensuring that the climate is considered in decisions related to pipelines, power lines, and offshore projects, so suffice it to say that the government members feel as though they're engaging in this exercise of integrating climate change.

We may be doing it in a different manner from that of our opposition colleagues, but we nonetheless are confident that it's going to arrive at the same results.

The Chair: We're doing a recorded vote on PV-89.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We have LIB-83.

Mr. Amos.

Mr. William Amos: Madam Chair, this is going back to the thematic that we've addressed on several occasions, the incorporation of UNDRIP and the reference to it in the Canadian energy regulator act.

I don't feel that we need to get back into this. We've touched on this in LIB-2 and LIB-7, and we did just previously in LIB-79. I guess to put a bit of a capstone on it and in a response to a point made earlier by member Duncan, at the end of the day we feel that we can incorporate UNDRIP without necessarily placing the word everywhere in the act, and in fact, that is the preferable approach.

Ms. Linda Duncan: May I comment on that?

The Chair: Sure.

Ms. Linda Duncan: I'm sorry, but the amendment to proposed section 3 was refused, and that's where you would have had to add the UNDRIP. Right now the definition for the determination of the rights is limited to the Constitution, so it does not include the UNDRIP.

The Chair: Point made.

(Amendment agreed to: yeas 8; nays 1 [See *Minutes of Proceedings*])

The Chair: We're on NDP-67. If it's adopted, PV-92 cannot be moved because of redundancy

Ms. Linda Duncan: We are on page 100, speeding along here.

We would add a new subsection 14(1.1) at line 3. It makes clear what the qualifications would be for each member of the board of directors for the CER, including respect for indigenous traditional knowledge and world view, community development, public engagement, and renewable energy. It also ensures the makeup of the board is diverse. The comment from Pembina is that expanding the required competencies of the board and the commissioners to include such factors as indigenous traditional knowledge and world view, and expertise in climate science, renewable energy, and public consultation will strengthen the bill and what they thought was the intended 21st century role for the CER.

● (1905)

The Chair: It's a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we move to PV-90.

Ms. Elizabeth May: Madam Chair, this is a change to lines 4 and 5 on page 100, relating to indigenous representation on the CER. It currently says that at least one of the directors must be an indigenous person. As you've heard in testimony from a number of people in the indigenous community, the Assembly of First Nations, and so on, the Government of Canada has adopted something in principle 10 of the federal government's approach to reconciliation called the distinctions-based approach. Rather than have a sort of pan-indigenous approach in which you appoint an indigenous person to represent the views of first nations, Inuit, and Métis, the amendment I'm proposing would ensure there is a director representing each one of these groups—first nations, Métis, and Inuit.

The Chair: Yes, as we've seen on other amendments.

Mr. Fast.

Hon. Ed Fast: Is it your intention to have a majority of the members be first nations?

Ms. Elizabeth May: I don't think that would happen on a board with three appointments.

Hon. Ed Fast: Actually, you could have five. That's what the minister directs. That would mean a majority, right?

Ms. Elizabeth May: Yes, if that's the minister's—

Hon. Ed Fast: You see the problem, right?

Ms. Elizabeth May: No, I don't. I think that would be an improvement.

Hon. Ed Fast: Okay. I thought the issue was balance.

Ms. Elizabeth May: Well, I think the issue is living up to our commitments under reconciliation. I submitted these—

The Chair: We're not going to debate.

Ms. Elizabeth May: We're not debating.

Hon. Ed Fast: This is about the energy regulator. It's not reconciliation.

Ms. Elizabeth May: And do you know what? I think it's an excellent thought, but as much as I might think that's a good idea, I think future ministers would ensure there was always balance, and they're not precluded from ensuring that indigenous representation remains a minority.

The Chair: Okay, I think we're good. Your point was made.

Hon. Ed Fast: Yes, thank you.

The Chair: It's a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we're on PV-91.

Ms. May.

Ms. Elizabeth May: Again, this is to the same point, but phrased differently and in a different proposed subsection.

The Chair: I think we've had some discussion on that.

Hon. Ed Fast: I'd like to have a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we're going to try a different way. Go ahead, Ms. May.

Ms. Elizabeth May: Actually, if we're going to PV-92, that was not allowed because it was in direct conflict with Linda Duncan's last amendment, so I now move to PV-93.

The Chair: No, but it didn't get adopted, so you're okay.

● (1910)

Ms. Elizabeth May: Am I okay to proceed?

The Chair: Yes.

Ms. Elizabeth May: Oh, I misunderstood what you said when you introduced her amendment for a vote.

The Chair: It's my fault in the way I said it. It is "if adopted", not "moved". It's my fault, sorry. It wasn't adopted. You're good to go.

Ms. Elizabeth May: Well, then like Lazarus risen again, let me point out that amendment PV-92 would allow the Governor in Council to ensure we had a board of diverse expertise, including—and I think this is really important—"relevant experience and expertise in climate science". That would be phenomenal to have on a CER board, as well as renewable energy, community development, and an understanding of the traditional knowledge of indigenous peoples.

Of course, this would be a broad range of experience and expertise not limited to these, but we'd draw attention to these because they've been so significantly lacking in the past.

The Chair: We're trying to get at this a few different ways.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to try PV-93.

Ms. Elizabeth May: Madam Chair, this is dealing with the issue of time limits on how long a person can serve on a board. The current legislation at clause 10, proposed subsection 21(3), puts a time limit in place for how long the CEO can serve, but at the moment directors seem to be able to be appointed for an indefinite period, and that doesn't seem like a good idea.

If we're going to put a time limit on the CEO, why do we not put a time limit on directors? I don't see a rationale for it, and on that basis I'm proposing, at line 11 on page 100, a proposed subsection 15(2.1), that reads:

> (2.1) No director is to serve in any capacity if they have served a combination of terms totalling ten years.

The Chair: That's clear.

Hon. Ed Fast: Madam Chair, I have a question for Ms. May. Is it the intention that if a director has served for 10 years and they stepped down for a year, they would not qualify at any time in the future to rejoin?

Ms. Elizabeth May: That's an interesting hypothetical. The way it was drafted was to ensure that a person who has served 10 years cannot continue to serve. Given your hypothetical and the way this is drafted, the answer would be yes. If you stepped down for a year merely to refresh yourself and stepped back on, you would be seen to have overstayed your term. There would be a term limit.

The Chair: I think the same would apply when thinking of the CEO under the current drafting.

Hon. Ed Fast: Well, I can't support that.

The Chair: That's the way it's written, for sure.

Hon. Ed Fast: I'd like a recorded vote, Madam Chair.

(Amendment negatived: nays 8; yeas 1)

The Chair: We're going to NDP-68.

Ms. Linda Duncan: This is a very important one. This goes to the crux of why there is now a CER and there will no longer be an NEB. It's on page 100, replacing lines 26 and 27, taking out the phrase that reads "while exercising the powers or performing the duties and functions of a director".

The intent is to broaden the scope of when a director is in a conflict of interest, by not limiting it to when they are exercising the powers or performing the duties as a director. This is to require a much higher level of ethics, and that a director should absolutely have no occasion where they may be in a conflict of interest.

The Chair: I think that's clear.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on PV-94.

Ms. May.

● (1915)

Ms. Elizabeth May: Madam Chair, I would remind members of the committee of the advice from the National Energy Board expert panel commissioned by the government on the critical importance of maintaining the independence of the organization. To quote from the expert panel report:

> a Board of Directors, independent of the management or regulatory functions of an organization, increases strategic oversight and accountability. Moreover, a Board of Directors is freer to work with stakeholders to shape the future of the organization....

When we're looking at the role of the board of directors, mindful of what the expert panel advised the government, I'm proposing this amendment, tacking on to the end of what's now proposed subsection 17(1) on page 101. That section sets out what the board of directors should do.

Instead of ending it after the word "commissioner", this would say:

> Commission or a commissioner, or interfere with the Commission or attempt to compromise the independence of the Commission in any way.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1)

The Chair: We'll go to PV-95.

Ms. Elizabeth May: Madam Chair, this goes to another one of the strong recommendations from the NEB expert panel report. It removes the requirement for the directors to live in Calgary, but unlike the recommendation from the NEB expert panel, which was that the agency office's headquarters should be moved to Ottawa, I'm attempting to respect some of the spirit of that in the current framework by suggesting that while the office and the administration and so on would stay in Calgary, the meetings of the board of directors would be held in the national capital region.

That is my Green Party amendment, submitted as PV-95.

The Chair: I think that's clear.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're on to NDP-69.

Ms. Linda Duncan: With NDP-69, again we're dealing with conflict of interest, but now we're dealing with conflict of interest for the CEO. This would remove the qualifier, which is only "while exercising the powers or performing the duties and functions" of the CEO. This expands it to all decisions made by the CEO.

Again, those were deep concerns on behalf of the public. That's what happened to Energy East. There are strong recommendations that we can prevent that kind of a problem with the disbanding of the CER by ensuring that we have the strongest and strictest rules for conflicts of interest.

The Chair: Okay.

Ms. Linda Duncan: [*Inaudible—Editor*] with the proponent.

The Chair: Right. Fair enough. So you're adding "include".

Shall amendment NDP-69 carry?

An hon. member: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're at NDP-70. Just so you know, if it's adopted, PV-98 can't be moved because of redundancy.

Ms. Linda Duncan: This has to do with the qualifications for the appointment of members to the commission. It is recommending:

> The commissioners appointed must reflect, to a reasonable extent

—which I think is good to add—

> the diversity of Canadian society and must ensure that, collectively, they maintain a range of competencies, including with respect to Indigenous traditional knowledge

We could change that; I would be willing to take out "traditional":

> and worldview, community development and public engagement, renewable and non-renewable energy, and environmental and climate science.

It would help to avoid claims for bias, or not treating some of the intervenors with respect, or the proponent even, if you have a wide diversity.

● (1920)

The Chair: Are you removing the word "traditional"?

Ms. Linda Duncan: I will remove the word "traditional" because that seems consistent with what has gone on.

The Chair: Yes, with what we've done before.

We're doing NDP-70 with the word "traditional" removed.

Mr. Arnold.

Mr. Mel Arnold (North Okanagan—Shuswap, CPC): Madam Chair, the terminology in here is somewhat subjective. The term "reasonable" could open it up for interpretation in many different ways. I don't believe it's relevant.

The Chair: You would see that as a challenge.

Mr. Mel Arnold: Yes.

Ms. Linda Duncan: If I may respond to that, it's very common language used in legislation, to simply say "reasonable exercise of your discretion in appointments". It's meant to make them more comfortable.

The Chair: Flexible.

Ms. Linda Duncan: No. It's not flexible. It means in a reasoned way. You look for diversity in a reasoned way, not in any extreme way.

The Chair: But it's not hard and fast.

Ms. Linda Duncan: No.

The Chair: I think clarity is there. We're voting on NDP-70—

Hon. Ed Fast: I'd like a recorded vote.

The Chair: —with a recorded vote with "traditional" taken out between "indigenous" and "knowledge".

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on PV-96.

Mr. Mel Arnold: Madam Chair, on a point of order, that previous motion was amended. Was there a vote on the amendment to remove the word?

The Chair: She moved it as amended. I moved it as amended with the change.

Mr. Mel Arnold: You moved it or she moved it?

The Chair: She moved it by taking out "traditional". I accepted that and brought that forward for a vote.

Hon. Ed Fast: That's fine.

The Chair: We're on PV-96.

Ms. Elizabeth May: Madam Chair, I won't belabour this again. It's to follow the distinctions-based approach to ensure that one commissioner must be appointed from each of the groups—first nations, Inuit, and Métis.

The Chair: If amendment PV-96 is adopted, PV-97 can't be moved because there will be a line conflict.

We'll vote on PV-96.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now at PV-97.

Ms. May.

Ms. Elizabeth May: Madam Chair, it's an attempt to do the same thing, replacing the line by "a member of a First Nation, or Métis or Inuit."

While it's not the same, it distinguishes the groups. There's a distinctions-based approach, but it's in the alternative as opposed to being cumulative.

The Chair: Yes. It's another way of doing it.

We're voting on PV-97.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're on PV-98.

Ms. May.

Ms. Elizabeth May: Madam Chair, the expert panel on the National Energy Board commissioned by the government has said that one of the most significant reasons, if not the most significant reason, the public noted distrust of the NEB was the makeup of its board. There was a strong perception that the board overrepresented oil and gas interests. Canadians voiced a desire for broader experience and expertise at the strategic level.

That advice cost the Government of Canada over $1 million. I did an access to information request to find that out. Expert panels aren't cheap. These were very well-qualified people, including Brenda Kenny from the Canadian Energy Pipeline Association.

The strong recommendation based on that advice is to improve and entrench in the legislation a requirement for a broader level of relevant expertise and experience, including from such things as climate science, renewable energy, community development, as well as understanding traditional knowledge of the indigenous peoples.

Thank you.

● (1925)

The Chair: Thank you very much for that clarification.

Hon. Ed Fast: Madam chair, may I just ask Ms. May if she is replacing the term "traditional" with "indigenous" knowledge.

Ms. Elizabeth May: I'm not able to change my own amendments because of the way the committee motion that brought me here is drafted. I certainly don't object to changing that, but I'm not in a position to change it myself.

Hon. Ed Fast: I don't support it in either case.

Ms. Elizabeth May: I'm sure you're excited to support it, Ed, so if you want to make the change for me, it would be very friendly.

Hon. Ed Fast: If you bring something forward that is reasonable, I will support it.

The Chair: Okay, hang on.

Ms. Elizabeth May: No, it's just friendly banter among friends.

The Chair: Nobody looks like they're moving that, so let's move on.

Shall amendment PV-98 carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on NDP-71.

Ms. Linda Duncan: Madam Chair, we are now on page 105.

NDP-71 is consistent with further recommendations about broadening the scope of determining when someone is in a conflict of interest. I would bring to your attention the way proposed section 29 is written. It very specifically says, "while exercising the powers or performing the duties and functions of a commissioner".

That's a pretty specific, narrow activity. You could be appointed as a commissioner, and you haven't done any work yet, and you decide to enter into a contract with one of the people who have applied, and it may or may not be reviewed. You could be holding a contract with one of those parties, but you don't do the work while you are sitting in your office and doing your work.

I am deeply troubled by that very narrow description. We know why the NEB was struck down. It was because of activities between members of the NEB, governments, and officials who had interests in various proponents. Supposedly it was just friendly, it was at another activity, and so forth. I don't know why the government wants to do this so narrowly. I think it's just going to open a Pandora's box for concerns being raised.

I would strongly recommend taking out "while exercising the powers or performing the duties and functions of a commissioner" to make clear that, if you are appointed as a commissioner, you simply will have clean hands.

The Chair: Mr. Arnold.

Mr. Mel Arnold: Madam Chair, I'd like to ask the officials here about the example that was provided of someone being appointed as a commissioner, not having done any duties in that role yet, but being involved in the investments or activities that she's concerned with. Would they not have to relinquish any of those other shareholdings and so on before taking on any duties as the commissioner?

Mr. Terence Hubbard (Director General, Petroleum Resources Branch, Department of Natural Resources): That would be the intent of those provisions, yes.

Mr. Mel Arnold: Thank you.

The Chair: Shall amendment NDP-71 carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to PV-99.

● (1930)

Ms. Elizabeth May: Madam Chair, I imagine people will recall that the National Energy Board expert panel also recommended that the newly created Canadian energy regulator should "publish regular reports on incidents and compliance actions" so that any interested party will know what happened, why, and what was done in response. That's taken from page 82 of the expert panel report.

What I've done here is very straightforward, and I do think this is the kind of reasonable thing that Ed wants me to propose so that he can support it.

This is for you, Ed.

Proposed subsection 32(2), which appears under "Inquiry", sets out what the commission may inquire into in terms of accidents, what we might do to prevent accidents, and decisions made.

At the moment, there's no requirement in the act to report on any of that, so it's a very straightforward and common-sense approach to say that the commissioner must make public the determinations that are made under proposed paragraphs 32(2)(a), (b), and (c). Once the commission has done this work, publish it. Make a report to which the public has access, and be more transparent about the work of the commission.

The Chair: Do you want to say anything?

Hon. Ed Fast: No, but I would like a recorded vote.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: Before I move to CPC-11, I've been asked that we have a nature break.

There are some last-minute amendments that people have brought forward. I would like to hand them out to everybody. I would like you to take a look at them. We're going to lose our technical support at nine o'clock. I want to make sure that you take a look at these new ones, and if there are any questions, that you have a chance to ask them.

We'll take a 10-minute break, now. You'll have those in front of you. At eight o'clock, if you need to have a few minutes with the officials to clarify anything, then that's what I want you to do, before they go. They're going to leave at nine.

Hon. Ed Fast: Is there no technical support?

The Chair: There won't be any after nine, because we're not having any discussion. We're just voting.

Hon. Ed Fast: It's a travesty.

The Chair: I'm trying to be fair. I want you to have a look. We've had all of the other ones in front of us for a little while.

Ms. Linda Duncan: Are they all Liberal amendments?

The Chair: There are some from the Liberals. There's one from Elizabeth. There are a few amendments that came in over the weekend. We just want to make sure you have them.

We'll suspend for 10 minutes.

• _____ (Pause) _____ •

• (1945)

The Chair: We're going to resume.

We ended up on CPC-11.

I wasn't clear when I suspended. We have distributed the new amendments that have been submitted in the last short while so that everybody has a chance to digest those before nine o'clock. Our experts will be leaving at nine. I thought I might give us a little break closer to nine to give you a chance to have a discussion with the experts if you have any questions about what they mean or anything else. At nine o'clock we'll move into voting without discussion.

I want everybody to have a chance to.... I am trying very hard to make sure that it's going to be fair and that you have a chance to get the knowledge you need.

Hon. Ed Fast: There is nothing fair about the process.

The Chair: Your point is made. Thank you.

Ed, would you like to do CPC-11?

Hon. Ed Fast: I would be glad to. Thank you, Madam Chair.

By the way, notwithstanding the fact that we disagree with you on timelines and we disagree with the government in its efforts to ram this legislation through, you're doing a good job. You're doing your best in very difficult circumstances.

The Chair: Thank you. I would say that for everybody. You're all doing a good job with difficult circumstances. Thank you, we're a good team.

Hon. Ed Fast: CPC-11 is an amendment brought forward by my colleague, Ms. Stubbs from Lakeland. She's proposing that the bill be amended in clause 10 by replacing line 30 on page 108 with the following:

> must give instructions to the commissioners authorized to

My rationale is that it is intended to clarify that the lead commissioner must give instructions to the commission to ensure that an application before the commission is dealt with in a timely manner.

As Bill C-69 is currently written, the lead commissioner "may" give instructions to the commission to ensure that an application before the commission is dealt with in a timely manner. You may recall that when this legislation was first tabled, the minister praised it as being a much more efficient way of moving forward. She praised the transparency—or what she felt was transparency—in this legislation.

If we want to make sure that there's timeliness, which is another thing she committed to, the lead commissioner must be compelled to give instructions to the commission to ensure that applications are dealt with in a timely manner.

In the interest of giving proponents certainty regarding timelines, the commission should always be operating with timeliness and efficiency in mind, as promised by the government. It should not be overlooked, as this plays a part in how investors view Canada.

I would dispense with a quote from the minister that actually reflects exactly what I just said she articulated when the legislation was tabled.

The Chair: I want to make sure that you all have as much time as you need, even though we're now over the five minutes. I'm still being very accommodating.

What would you like to say, Linda?

Ms. Linda Duncan: Looking back in the bill, it specifically designates a lead commissioner and the role of the lead commissioner. It seems like that's the job of the lead commissioner. Otherwise, why do you have a lead commissioner? It seems like their mandate is to keep things going.

Hon. Ed Fast: The legislation, as presently drafted, is permissive and non-mandatory.

The Chair: He says it's going from "may" to "must".

Hon. Ed Fast: That is correct.

The Chair: That's made clear.

Ms. Linda Duncan: It's the way it is throughout the bill.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I would like a recorded vote.

(Amendment negatived: nays 5; yeas 4)

The Chair: We are now on CPC-12.

You're up, Mr. Fast.

Hon. Ed Fast: This is another amendment proposed by my colleague, Ms. Stubbs from Lakeland. It is that Bill C-69 and clause 10 be amended by replacing line 8 on page 112 with the following words:

> appropriate to do so and shall make public its reasons for holding the hearing.

The purpose of the amendment is that it requires the commission to make public any reasons for holding a hearing in respect of any other matter that the commission considers appropriate to hold a hearing for. As Bill C-69 is currently written, the commission may hold public hearing in respect of any other matter that the commission considers appropriate.

The section, as currently worded, is vague and gives the commission the power to hold a public hearing on virtually anything. There should be a requirement for the commission to make public their reasons for holding a hearing in respect of any other matter, as is defined in this act.

● (1950)

The Chair: Yes, Linda.

Ms. Linda Duncan: I would support it, but for quite different reasons, because it offers transparency. Again, a Conservative MP calling for transparency—

Hon. Ed Fast: We're all for transparency.

The Chair: You guys, this is getting a bit scary here.

Mr. William Amos: We support this as well. This is a great idea.

Hon. Ed Fast: You support it.

Mr. William Amos: Of course.

The Chair: Let's go to a vote, then.

Hon. Ed Fast: We want a recorded vote. We have to record this one.

(Amendment agreed to: yeas 9; nays 0)

The Chair: There you go, guys. Now we're getting the teamwork we need.

We're turning to PV-100.

Ms. Elizabeth May: Imagine that: we're on my 100th amendment. We're on page 112.

When the commissioner must issue written reasons for recommendations, my amendment would expand that and say the written reasons must cover the following topics: must demonstrate a consideration by the commission of the impact of the recommendations on the rights of indigenous peoples; must demonstrate the consideration by the commission of the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change as a consequence of the recommendations; as well as any public input received with respect to the recommendations.

Again, it's transparency. It's more information for the public. It's that the commission, when providing written reasons, as required by proposed subsection 53(1) will ensure those written reasons reflect its consideration of key factors.

Thank you.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: I just want to remind everybody that we're at almost 10 minutes for each party on this. We still have a long way to go on this clause. If we could just tighten up a little bit, that would be very helpful.

Ms. Linda Duncan: If they would vote for all my amendments, I would be really happy—no discussion.

The Chair: The voting is not the hard part. It's having the discussion. Let's keep it succinct and we can hear more from everybody rather than less.

If NDP-72 is adopted, PV-101 cannot be moved because of redundancy.

You're up, Linda.

Ms. Linda Duncan: Following on the previous amendment, on page 112, after line 30, would add a new heading. This is under the exercise of the commission's powers and the performance of its duties and functions. The new heading would be "Environmental and Climate Change". It would ensure that the regulator considers Canada's commitments, international and domestic, regarding environment and climate change when making a decision, an order, or a recommendation.

Hon. Ed Fast: I want a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We'll move on to PV-101.

Ms. May.

Ms. Elizabeth May: It's in the same section that was just referenced by my colleague, under the "Apportionment of work". BIll C-69 says that the CEO is responsible for apportioning among designated officers certain amounts of work. I would insert, following that, in proposed subsection 55.1(1), that "the Commission must consider the public interest and, in particular," and then that's broken down into proposed paragraphs that would deal with issues of the implementation of mitigation measures, the extent to which the effects of the designated project help or hinder our climate objectives, considerations of the public interest, considerations of sustainability, as well as our obligations and international commitments, particularly for climate.

That is amendment PV-101. Thank you, Madam Chair.

● (1955)

The Chair: Thank you.

Shall the amendment carry?

Hon. Ed Fast: I want a recorded vote.

(Amendment negatived: nays 8; nays 1 [See *Minutes of Proceedings*])

The Chair: Now we have NDP-73.

Ms. Linda Duncan: This is on page 113, replacing lines six and 11. Consistent with what this is supposed to be talking about, the rights and interests of indigenous peoples, given the fact that the preamble says that also includes UNDRIP, I am adding UNDRIP to proposed subsections 56(1) and 56(2).

The Chair: That's clear. We've had that discussion a few times. If adopted, PV-102 and PV-103 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're on PV-102.

Ms. May.

Ms. Elizabeth May: I would be open to considering PV-102 and PV-103 at the same time so that the committee might have time to debate more motions. They deal with the same concepts. They're more or less interchangeable. They attempt, again, to insert the UN Declaration on the Rights of Indigenous Peoples, twinning it with references to section 35 of the Constitution Act.

The Chair: That's fair. The vote will apply to PV-102 and PV-103.

(Amendments negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on LIB-84.

Mr. Aldag.

Mr. John Aldag: We've seen this in previous parts of the bill. It uses language we're comfortable with in terms of representing the interests of first nations, Inuit, and Métis.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: We're now on LIB-86.

Mr. John Aldag: Similar to the previous amendment, we've had this before. It's simply applying indigenous knowledge to this proposed section of the bill.

The Chair: The vote will also apply to LIB-87, LIB-90, and LIB-91, which are the consequential changes.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: We're on CPC-13.

Mr. Fast.

Hon. Ed Fast: This is another amendment brought forward by my colleague from Lakeland, Ms. Stubbs. The amendment is that Bill C-69 in clause 10 be amended by replacing line 25 on page 113 with the following:

ferred to in that subsection must be disclosed if

Let me tell you what the intent is. It clarifies that if any traditional knowledge of indigenous peoples of Canada is provided to the regulator in confidence, it is publicly available, or if disclosure of that knowledge is necessary for procedural fairness, natural justice, use in legal proceedings, or is authorized to be disclosed under the regulations set by Governor in Council, that information must be disclosed. Again, it's not optional. It's mandatory that it be disclosed under those conditions.

As Bill C-69 is currently written, any traditional knowledge that is provided to the regulator in confidence that is publicly available or necessary to be disclosed for the reasons I articulated earlier—

● (2000)

The Chair: I'm interrupting.

Hon. Ed Fast: Are we on the right one?

The Chair: All you're changing is "traditional" to "indigenous", aren't you? Nothing else is changing.

Hon. Ed Fast: I don't think so.

The Chair: I'm looking at the wrong one. Go ahead. It makes sense now.

Hon. Ed Fast: The bill already does this, but the word "may" is too vague. Again, we're moving from permissive to mandatory. If indigenous knowledge meets the criteria outlined in the bill, the criteria set out by the Governor in Council in the form of the regulations, then it should be disclosed.

The Chair: All right. I think that's clear.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We're moving on to PV-104.

Ms. May.

Ms. Elizabeth May: Thank you very much.

This one is very specifically related to an issue that's come up throughout the review of this ominous bill, and that's the treatment of traditional knowledge or indigenous knowledge. This is related to the disclosure of information that indigenous peoples have asked remain confidential. The two exceptions where indigenous knowledge can be shared occur in the lines that I'm deleting. The first occurs in lines 30 to 31 on page 113, where the disclosure is authorized. The second is on the following page, where the Governor in Council can, by regulation—and this is really specific and I find it really very offensive—release indigenous traditional knowledge that is provided to the regulator in confidence and that it "may be disclosed without written consent."

I can't imagine how such a provision could apply in an era when we hear from a government that there's no relationship more important to us than our relationship with indigenous people, but we could in the process of this hearing get their information, tell them we're going to keep it confidential, and then release it without their consent. I don't understand why that's in here and I hope you'll agree with this amendment.

Hon. Ed Fast: Madam Chair, there's also another duty, and that is toward procedural fairness to an applicant, to a proponent of a project. I don't think Ms. May is suggesting that proponents should not have access to procedural fairness or natural justice, but that is the impact of her amendments. That would be a very sad state if, in fact, proponents do not have basic procedural rules of fairness that they are treated with.

Ms. Elizabeth May: Can I respond to that?

The Chair: You can respond, and then I'll have Ms. Duncan.

Ms. Elizabeth May: I'll very briefly direct you to "Further disclosure" in proposed subsection 58(3), which allows the regulator to impose conditions with respect to the disclosure of traditional knowledge by any person to whom it is disclosed "for the purposes of procedural fairness and natural justice". The concern that he has raised is covered by a proposed subsection I'm not deleting.

The Chair: Ms. Duncan.

Ms. Linda Duncan: What I find astounding is that the indigenous people say that they're willing to give this information to you, but you must keep it in confidence. The authority could say, "We don't agree with this designation; therefore, we will not receive the information." But having received it in confidence, I agree, it's outrageous that they would then breach that confidence when, in fact, it was received having said, "Yes, we will receive that in full confidence. We dub this as confidential." It's unbelievable that the indigenous peoples reveal that information, and later, for whatever purposes, the government overrides that confidence. I find it pretty stunning.

● (2005)

The Chair: All right. I'm seeing people ready to vote.

Hon. Ed Fast: Definitely record this one.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We have LIB-88.

Go ahead.

Mr. William Amos: Madam Chair, I would like to speak to this, but also to LIB-89, which is substantially related. This speaks to the consideration of indigenous knowledge and the importance of consultation prior to this disclosure.

The context of amendment LIB-88 relates to the incorporation of that consultation with the procedural fairness and natural justice aspects of the proceedings around the energy regulator act. LIB-89 speaks specifically to the regulator "having regard to that consultation".

The two are linked, and we think they ought to be voted upon together.

The Chair: I think that summed up pretty well the discussion you guys had on this side of the room.

Hon. Ed Fast: We're very supportive.

Ms. Linda Duncan: I want to speak to that.

The Chair: Okay.

Let's make it brief, though, because you were way over.

Ms. Linda Duncan: Even if we just stick with what the courts have said, it's consult and accommodate. It's not just consult. This means nothing.

Indigenous people want to give this information but only if it's provided in confidence, and then the regulator decides that, well, if the proponent wants it.... It's, "We'll talk to the indigenous people but we're going to release it anyway". That's what that says.

The Chair: Mr. Amos.

Mr. William Amos: With respect, Madam Chair, it doesn't say anything of the sort. This has to do with ensuring that there is a consultation between the governmental body and the indigenous entity or individual who is engaged in the provision of the indigenous knowledge. This has nothing to do whatsoever with accommodation. Accommodation is an entirely separate and distinct aspect, and I think this is a red herring discussion.

I'd leave it at that.

The Chair: We're going to wrap the discussion up. I think we've had the discussion. The vote applies to LIB-88, LIB-89, and LIB-89.1, which is the consequential change.

Hon. Ed Fast: What do you mean, "apply"?

The Chair: If you vote on this one, you're basically voting on those ones, because they're tied.

Hon. Ed Fast: Hold it. Don't we have to give our consent for you to apply votes?

The Chair: No. The legislative clerk tells us when we're voting on something and it affects the other ones, then we need to know that they're all dovetailed together, so they have to be voted on together.

● (2010)

Hon. Ed Fast: That I understand.

The Chair: That's what I'm saying.

Hon. Ed Fast: So we're not applying votes.

The Chair: No, they're tied together. That's why they need to be done together, which is why you need to see it.

Hon. Ed Fast: Madam Chair, we are fully supportive of those.

The Chair: Shall the amendment carry?

Mr. Fast would like a recorded vote.

(Amendment agreed to: yeas 8; nays 1 [See *Minutes of Proceedings*])

The Chair: Just so you know, LIB-90 was dealt with under LIB-86, which I already said. That was passed.

Now we're on to amendment PV-105.

Ms. May.

Ms. Elizabeth May: This is, again, in proposed section 59, under "Regulations", an attempt to ensure that those regulations are made only after consultation with indigenous governing bodies. It's about making regulations prescribing circumstances, again, around a circumstance that I think shouldn't occur, which is the disclosure of indigenous knowledge that was provided in confidence.

The Chair: Mr. Fast would like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

Mr. William Amos: Member Duncan, there is no reference to accommodation. How can you support it?

The Chair: We don't need debate. It's over. The vote's done.

LIB-91 was dealt with under LIB-86, so that's taken care of. We're now on to LIB-92.

Mr. Fisher.

Mr. Darren Fisher: Thank you, Madam Chair.

This would reference inspection officers in this section. It was left out of the current bill. Of course the inspection officers should be included here as they always condition their orders. So essentially if you look on page 116, line 31 right after "Conditions", it would add "A decision or order made by the Commission, a designated officer or an inspection officer under this Act may include any conditions that the Commission designated officer or inspection officer considered".

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 8; nays 1 [See *Minutes of Proceedings*])

The Chair: We're at LIB-93.

Mr. Amos.

Mr. William Amos: I understand this amendment has been withdrawn.

The Chair: I don't have that anywhere. Let's just make sure.

Mr. William Amos: Just withdraw it, please.

The Chair: It's withdrawn.

On NDP-74, we have Ms. Duncan.

Ms. Linda Duncan: This is under the section on public participation, public costs, public engagement, public funding, page 120. My amendment will take out section 74 and add a new provision after section 75. That provision says that:

> The Regulator must establish, within the corporation, a Public Intervenor Office to manage any participant funding program established under section 75, advise the Regulator on the appropriate mechanisms and timing of engagement activities and, on a voluntary basis, represent the interests and views of parties, the public—and, if appropriate, the Indigenous peoples of Canada and Indigenous organizations—on matters within the Regulator's mandate.

Then it goes on about establishing the processes to engage with the public and in particular with indigenous peoples, and also that it may co-ordinate scientific and technical studies to the extent possible and could develop pools of independent experts. That's very important to intervenors and is raised quite frequently. To provide third-party independent advice and ensure information provided by the proponents, the regulator and the Public Intervenor Office is searchable, transparent, well-organized, and not subject to change so it can facilitate public access.

● (2015)

The Chair: Thank you very much.

Did you want to ask something?

Hon. Ed Fast: Is this amendment in order because it's creating a whole new office. It is establishing the public intervenor office, which has costs attached to it.

The Chair: It's within the scope.

Hon. Ed Fast: I don't know about that.

The Chair: Yes, it is within the scope. It's that debate we had earlier. We're not going to have it again, but I get your point.

Hon. Ed Fast: I'm raising it again. I think it's outside the scope of the legislation.

The Chair: I know, but I'm making the same ruling.

Ms. Linda Duncan: It's not encircled with the CER. It's within the CER.

The Chair: It's in the scope of the bill, but I get your point.

Hon. Ed Fast: The point is sinking in. That's the problem.

The Chair: It is sinking in but I had the discussion with the experts at the back, and I am resolved that this is okay. It's within the scope.

On NDP-74, shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on to LIB-94.

Mr. Aldag.

Mr. John Aldag: What is being proposed here by Mr. Bossio is straightforward. It's before you, so I suggest we vote.

Hon. Ed Fast: Actually I would like to have an explanation from Mr. Aldag. Mr. Bossio entrusted him with the explanation.

Mr. John Aldag: Take advantage of our officials while they're here.

The Chair: They have waited a long time to help us, so go ahead and help us today.

Hon. Ed Fast: Then they're going to walk out on us.

The Chair: They're going to leave us at nine o'clock. The fun is over.

Mr. Terence Hubbard: If I read this correctly, it's simply a proposal to change a "may" to a "must" include processes to meaningfully engage the public when hearings are required under the legislation.

The Chair: It does something like what you were talking about before.

(Amendment agreed to: yeas 8; nays 1)

The Chair: I just want to make sure you're all aware that NDP-75 and PV-107 cannot be moved, because now there's a line conflict.

On PV-106, go ahead, Ms. May.

Ms. Elizabeth May: Thank you, Madam Chair.

Again, this is in the public participation section, page 120, line 12, and it's related to the importance found in the purpose clause of the proposed act, which instructs us that one of the act's purposes is "to ensure that regulatory hearings and decision-making processes related to those energy matters are fair, inclusive, transparent and efficient."

To that end, I am proposing a new subsection 74(2), so that "The Regulator must, at the end of each fiscal year, prepare and make public a report that includes an evaluation of the processes established under subsection (1)", which is of course around public engagement, that it would "set out its plan for public engagement for the upcoming year", and that, in developing this plan, it would "invite the public to provide comments".

This is about an ever-involving, open, inclusive, fair, and transparent process for engaging the public in decision-making.

● (2020)

The Chair: A recorded vote has been requested.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

Ms. Linda Duncan: Madam Chair, I'm not sure why you're saying NDP-75 is no longer consistent, because I'm simply adding a qualifier.

They changed NDP-75 to say "the Regulator". It says exactly the same, "For the purposes of this Act, the Regulator must".

The Chair: It's because there's a line conflict. NDP-75 says lines 13 and 14, on page 120, so they changed it. Sorry, Linda.

We're now moving on to CPC-14.

Hon. Ed Fast: This is another amendment put forward by my colleague Ms. Stubbs from Lakeland. She proposes that Bill C-69 in clause 10 be amended by replacing line 18 on page 120 with the following:

> 241(3). The participant funding program may also be used to facilitate the participation of the Indigenous peoples of Canada and Indigenous organizations in any steps leading up to those hearings.

The purpose is effectively to ensure that the participant program, which a regulator may establish, can only fund the participation of Indigenous people and Indigenous groups in the steps leading up to the public hearing played out in the act. As C-69 is currently written, the regulator may establish a participant funding program to help facilitate the participation of both the general public and Indigenous peoples in the public hearings and in the steps leading up to public hearings.

Just to be very clear, we support the funding of both public and Indigenous people's participation in public hearings. We also support funding Indigenous participation in the steps leading up to those hearings. However, allowing the participant funding program to fund all public participation in such a broadly defined portion of this regulatory process is irresponsible.

Ms. Linda Duncan: Can I ask a question about the numbering? It has "241(3)".

The Chair: Only because if you look at line 18, it starts with "241 (3)". That's what it starts with.

There is a period because they start a new sentence. They're stopping it there. It was "241(3) and any steps leading to those hearings". They're starting a new sentence that expands on that. I'm still not sure I get what the difference is, but—

Ms. Linda Duncan: Is this for the planning stage or something?

The Chair: No.

Can we take the vote?

Hon. Ed Fast: Can we have it recorded?

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: On PV-108, we have Ms. May.

Ms. Elizabeth May: Thank you, Madam Chair.

The participant funding program in this act, strangely, as currently drafted, unlike the impact assessment act, only provides for the potential for participant funding. It doesn't require participant funding. I think it's inconsistent. Obviously it's inconsistent with the impact assessment process. Why would the same government say participant funding is important if you're doing an impact assessment but not important if you're proceeding under the Canadian energy regulator? The participant funding program is a toe in the water in section 75, in that, "the Regulator may establish a participant funding program".

My amendment would ensure that it was not discretionary but mandatory, as it should be. Thank you.

● (2025)

The Chair: Okay, that's clear.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're on PV-109.

Ms. Elizabeth May: I'd just suggest, on PV-108, that if we're not serious it shouldn't be called "public engagement". It should be called "public dating". Sorry, that was a bad joke.

The Chair: All right. It's getting late.

Ms. Linda Duncan: You mean it looks like they're not serious.

Ms. Elizabeth May: It doesn't look like they're serious.

PV-109 is to ensure that we have an indigenous governing body referenced and not merely a government or indigenous organization. The language "Indigenous governing body" was specifically recommended to this committee by numerous witnesses, including the Assembly of First Nations. Thank you.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: You're getting a *Kumbaya* harmony going on over there. That's good.

Hon. Ed Fast: Yes, at least on this side.

The Chair: Let's see how we do on this one.

CPC-15, go ahead.

Hon. Ed Fast: It's another amendment brought forward by Ms. Stubbs from Lakeland. It's that Bill C-69, in clause 10, be amended by adding after line 10 on page 121 the following:

> (78.1) Despite section 78, the Minister must not enter into any arrangement under section 77 devolving any powers, duties or functions given to the Minister or the Governor in Council in respect of any final decision or order.

I think you all know where I'm going with this. It clarifies that, regardless of the regulations set by the Governor in Council in regard to the ability of the minister to enter into arrangements with indigenous governing bodies, and to authorize those indigenous governing bodies to exercise power under this act, the minister does not devolve any powers in respect of any final decisions. I want to make sure that's clear.

The bill, as currently written, provides that the minister may enter into arrangements with these indigenous governing bodies for the purpose of carrying out this act, may authorize those bodies to exercise powers or perform duties and functions under this act in accordance with regulations governing these arrangements.

This simply limits the ability of the minister to delegate her final decision-making powers. I think that's reasonable.

The Chair: That's clear.

Ms. Linda Duncan: Can I make a comment on this?

The Chair: Be very quick.

Ms. Linda Duncan: The federal government has devolved powers in the past. When I was assistant deputy in the Yukon, we were devolving forestry. They've devolved oil and gas. This would preclude any future devolving of any powers to do with energy to a first nation government, and that would include for a renewable energy project or for all kinds of things. I think, then, for that reason, this would tie the hands of the government forever into the future to never devolve any of its powers under a first nation final agreement.

Hon. Ed Fast: With respect, that is simply not the case. The powers that are exercised under this act, once it is proclaimed to be in force, are the minister's powers. They are subject to any agreements that are negotiated between the Government of Canada and our first nations. That doesn't change. This simply clarifies that in exercising her powers under this act, as they presently are—

● (2030)

Ms. Linda Duncan: [*Inaudible—Editor*]

The Chair: Give him a chance to finish.

Hon. Ed Fast: —there is no right to devolve those powers under this act as the minister is exercising his or her powers.

The Chair: Let's go to a vote. I think we know what the issues are here.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 6; yeas 3)

The Chair: We're going to go on to NDP-76.

Linda, go ahead.

Ms. Linda Duncan: This adds the subject areas the regulator must study to include "the impacts of the production, distribution and use of energy on climate and"—the reverse—"the impacts of a changing climate on the production, distribution and use of energy". It also adds consideration to "Canada's transition to a low carbon economy", which the current government has committed to.

The Chair: All those in favour of NDP-76?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're going to PV-110.

Ms. May, go ahead.

Ms. Elizabeth May: Thank you, Madam Chair.

I think that, given the critical importance of climate questions to all governments around the world, having an energy regulator that doesn't have a specific responsibility to maintain ongoing awareness, review, research, etc., of how their areas of energy regulation relate to climate is a big gap. Where the section is called "Study and review", the government directs that the regulator must study and keep under review matters relating to exploration and supply, essentially, and the safety and security of regulated facilities, but nothing as to the impact of the regulated industries on the threat of the climate crisis.

Again, I do think we should aspire to Canada's energy regulator having the kind of robust analysis and comprehensive review that now happens under the International Energy Agency. The International Energy Agency isn't a replacement for UNEP, the United Nations Environment Programme. It doesn't replace the secretariat of the UN Framework Convention on Climate Change. However, it recognizes that critical research and analysis done by the International Energy Agency informs public policy all around the world, and I think our Canadian energy regulator should reflect domestically what international energy agencies conduct internationally.

This is a minor amendment to address a very large gap.

Thank you.

The Chair: Thank you very much.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're moving on to PV-111.

Ms. Elizabeth May: Again, this is relating to what the regulator will submit to the minister, reports of what the regulator considers to be necessary or in the public interest, looking at traditional—I have to say—20th-century views of what it regulates. I am suggesting that we insert proposed paragraph (c) so that the the regulator also considers what is required for:

> the Government of Canada to meet its environmental obligations and its commitments in respect of climate change.

The Chair: Thank you very much.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2035)

The Chair: Now we're on PV-111.1, Ms. May.

Ms. Elizabeth May: Thank you.

This is another way of dealing with the same problem by deleting lines 14 to 16 on page 122. The effect is that the regulator is not prevented from publishing reports. So, it's not the same thing. I mean, it's public information as opposed to just climate information.

The goal here—perhaps the Conservatives will support me on this—is to ensure that the regulator has not just a possibility, but the duty, to publish without the minister's consent. We want a body that's open and transparent. Why should a body like the Canadian energy regulator need the minister's consent to publish its reports?

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now onto LIB-95.

Mr. Fisher.

Mr. Darren Fisher: This is just on a typo. The change is from "a employee" to "an employee".

I'd like a recorded vote.

An hon. member: Hear, hear!

The Chair: That was quick.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: We'll move on to LIB-96. Let's try to do this one as quickly as possible.

Mr. Darren Fisher: This has to do with the definition of "holder". The definition of "holder" includes, under proposed paragraph 93(d), "a company that has been granted leave under Part 3 to abandon a pipeline". It's merely a part of the definition.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: Good work.

We'll move on to LIB-97.

Mr. Darren Fisher: This just adds to the concept "an abandoned facility", which is not exactly the same as the abandonment of a facility. Again, it's just a clarification here.

The Chair: Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: CPC-16 was dealt with under CPC-10, so now we have LIB-97.1.

Mr. John Aldag: This is under "Exemption orders", on pages 127 and 128, and simply adds some clarification. Right now, the existing text ends with "under section 96 or 312". The rest of this is new and provides additional clarification.

● (2040)

The Chair: All right.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 9; nays 0 [*See Minutes of Proceedings*])

The Chair: We are on LIB-98, Mr. Fisher. It's all yours.

Mr. Darren Fisher: All right. Thank you.

It's in proposed section 108. Sorry, but I'm moving pretty quickly here. Inspection officers can issue a notice of non-compliance against a "holder", which would include someone who holds some form of authorization from the regulator. In contrast, under proposed section 109, inspection officers can issue a safety order against a "person", a broader term which would include third parties.

I'm trying to remember this one....

Mr. John Aldag: It's about changing it to person—

Mr. Darren Fisher: Yes, it's changing "holder" to "person".

The Chair: Would you like a recorded vote?

Hon. Ed Fast: Yes.

(Amendment agreed to: yeas 9; nays 0 [*See Minutes of Proceedings*])

The Chair: Well done. We're moving nicely now.

We now have LIB-99.

Mr. Darren Fisher: It's me again and we're moving six pages up to page 139 and the first line. It has to do with powers of the regulator under proposed paragraph 116(1)(c), which says the regulator is authorized to "designate persons or classes of persons to conduct reviews under section 128" of an AMP violation.

Under proposed sections 125 to 128, reviews of AMPs are to be conducted by the commission, although timelines for filling a request for review can be extended by the regulator.

Hon. Ed Fast: Are you talking about LIB-99?

The Chair: Yes, it's LIB-99. We're on page 139.

Hon. Ed Fast: Is it right at the top?

Mr. Darren Fisher: Yes, right at the top.

The Chair: It will say, "The Commission may designate" rather than just "designate".

That's one change.

Ms. Linda Duncan: How is that different from what it already says?

The Chair: It says the "Commission".

Mr. Darren Fisher: This clarifies it and makes it a little stronger.

Ms. Linda Duncan: It says, "The Regulator may..." in line 1. I don't understand what you're saying here.

The Chair: Okay. Hang on. We're going to get some help.

Mr. Terence Hubbard: It's just a quick nuance.

The "Regulator" within the bill refers to the entire organization, whereas the specific responsibility to delegate here rests with the commission. This is just clarifying that it's that part of the organization that has the ability to designate.

Ms. Linda Duncan: We're completely getting rid of proposed paragraph 116(1)(c) and creating a whole new proposed section?

The Chair: Yes.

That's one piece of it. Then you move to the other sections.

Shall the amendment carry?

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 9; nays 0 [*See Minutes of Proceedings*])

The Chair: Thank you very much.

Now we're on to PV-112, Ms. May.

Ms. Elizabeth May: Thank you.

This is on page 143, under the current proposed section 135. It allows the regulator to make public the nature of a violation and so on. I'm deleting that section in order to create an opportunity to say, "The Regulator must make public the orders made under subsections 95(1) or (2), the notices of non-compliance issued under subsection 108(1) and the notices of violation". It both removes the discretion to make such reports public and expands the number of things that the regulator has already decided, which it must make public.

● (2045)

The Chair: Thank you very much for that.

Mr. Fast has asked for a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: I mentioned before the last break that we have 15 minutes for the experts to be with us, and I want to make sure that if anybody has any questions about anything that's still to come, they have a chance to ask the question. Do we have any challenge or any issue that's not clear?

Go ahead, Mr. Fast.

Hon. Ed Fast: Yes, there is a challenge. I think everything is clear and that is that the government is intent on shoving this legislation through without regard for proper timelines. We have a whole number of—

Mr. John Aldag: Madam Chair—

Hon. Ed Fast: I'm speaking now, John. Give me the courtesy of articulating what is in the hearts of many of us at this table, and that is about the sham of a process that we're going through. We have many more amendments—you can see them right here—that we still have to go through and that will not be discussed or debated. You will have seen on our side of the table that goodwill has been shown. We've supported some of the Liberal side's amendments. We have supported some amendments coming from Ms. Duncan, from Ms. May. That is the way a committee should work, and we should have the time to do that work properly.

Unfortunately, because the government has indicated that it wants this pushed through within a certain time frame that is not appropriate for the scope of this bill, it will be Canadians who will be cheated out of this process. They will have a bill that is way less than satisfactory.

Secondly, Madam Chair, I don't want you to take this personally, but under whose authority are the timelines for this committee's work being shortened? Who imposed the timelines? Did this come from the Prime Minister's Office? Did it come from the minister's office? Did it come from Mr. Wilkinson, who's the parliamentary secretary? Did it come from Kyle, who's providing directions to the members on the Liberal side? Maybe Kyle is a super-powerful guy like Gerry Butts.

The Chair: I've been very generous. We're way past....

The motion that was—

Hon. Ed Fast: One final try...?

The Chair: No, Ed.

Hon. Ed Fast: This is the last thing I will say.

The Chair: Be very quick, because I am going to stop it now. I was being very generous to make sure people had a chance before they left.

Hon. Ed Fast: Canadians have a right to know what's going on here. The officials are leaving us now. We're going to spend hours yet going through this without any officials being able to provide us with further advice. It's a sad commentary on this Liberal government that talked so big about transparency and openness and has been the most secretive government we've ever seen.

The Chair: Okay. I was generous. I'm going to stop it now, because obviously we're not using the generosity in the way I intended. We're going back to moving on.

Ms. Linda Duncan: I have a question for the officials.

Excuse me. Don't colour me with the—

The Chair: Linda, if it's a question, let's go with the question.

Ms. Linda Duncan: A major issue that has arisen in Alberta has been over who has the responsibility to authorize and export power lines. There's been a game that has gone on such that in the province of Alberta we do pieces of it, and then there's one last piece that goes as far as the border. There actually has been litigation over it. Some of you are probably aware that it should have been the National Energy Board rather than a local authority.

Can you tell me whether in this bill we are clarifying that, when the intent is to build a facility in order to enable the export of electricity? Is that going to be under the ambit of the CER now?

Mr. Terence Hubbard: Under the proposed legislation, as is the case today, the energy regulator would have a mandate for interprovincial, international—

Ms. Linda Duncan: Not interprovincial. I'm specifically talking about international.

Mr. Terence Hubbard: —power lines as well as the export and import of commodities.

Ms. Linda Duncan: They "would" have; are you saying it's not mandatory?

Mr. Terence Hubbard: It is within the mandate of this organization, yes.

● (2050)

Ms. Linda Duncan: It is, so it's different than it was previously.

Mr. Terence Hubbard: Under the current framework, the board does have responsibility for the export of electricity—

Ms. Linda Duncan: And did not seize that jurisdiction. Then, what has changed to give confidence to Albertans that the CER will be seized of its responsibility to review a power line where there is an intent to export electricity? Is there something in this bill that is going to give assurance? You say it was with the NEB, but they are not seized of that jurisdiction. Is there something in this bill that I can find to give people assurance that this time the federal authority will do that review?

Mr. Terence Hubbard: The primary interest going forward in this overall framework will be the project list, the designated project list, which will identify those projects that have key impact in areas of federal jurisdiction. Throughout the consultations currently under way, consideration will be given to whether some of these activities merit a full federal review or whether they will continue to be assessed primarily under provincial jurisdiction.

Ms. Linda Duncan: You're saying it's the project list that's going to be the determinant.

Mr. Terence Hubbard: It would be the primary determinant as to whether—

Ms. Linda Duncan: We're all having to vote before we have the project list.

The Chair: The purpose of my giving a little bit of extra time was to see if you needed any clarity on the ones that got added to the list before you had time to call the experts.

We're going to move on now. We're going to move back to the work we're doing.

Mr. Arnold, is it something about any of these new ones, or is it something else?

Mr. Mel Arnold: Yes, it's on these ones.

The Chair: Which one?

Mr. Mel Arnold: Not one in particular, but I'd like to—

The Chair: No, this is really what I was trying to get at.

Mr. Mel Arnold: That's what I'm getting at.

The Chair: Okay, go ahead.

Mr. Mel Arnold: I want to ask the officials here in the room for the final few minutes whether, out of 600-some odd pages, there are any pitfalls, problems, or complications with these last-minute amendments. First, have you looked closely enough at these last-minute amendments to be able to determine whether there are potential problems?

Mr. Terence Hubbard: I haven't reviewed the complete new package at this point in time.

Mr. Mel Arnold: Anybody...?

The Chair: Do you want to take a few minutes just to see who can answer that question?

We'll move on to the ones that we've had in front of us for a while. You can take a look at these if you don't mind and just make sure the question gets answered.

Ms. Linda Duncan: I want to return to the matter I asked about. I look at proposed section 253 and my reading of it is the complete opposite of the answer I was given. It says that provincial laws will apply.

Mr. Jeff Labonté: Proposed section 253 refers to power lines from one place in the province to another within the province.

Ms. Linda Duncan: Show me the section for international power lines.

Can they elect to go by the provincial system? The proponent can elect a provincial review. Is that right?

Mr. Terence Hubbard: I think if you read section 247, you will see that it's prohibited to carry out construction of an international power line without a permit issued under section 248 or a certificate issued under section 262.

Ms. Linda Duncan: How do you read that with section 257 and 259?

They can elect, right?

● (2055)

Mr. Terence Hubbard: Once a decision is taken by GIC to designate a line, the commission must carry out that public review through a certificate process rather than a permit process. Otherwise, it would follow primarily the provincial process.

Ms. Linda Duncan: So, again, it's the project list.

Mr. Jeff Labonté: Partly.

There are two parts. One would be the project list, which automatically designated it. The second is that there's the ability for the commission to designate something, even if it's not on the project list, so that it may be treated as such. It's not dissimilar to what's in the impact assessment act where the minister may designate something that's not on the project list as a designated project.

Ms. Linda Duncan: Is that totally different from what it is now?

Mr. Jeff Labonté: It exists now, as well, in terms of replication of some of the features.

Ms. Linda Duncan: And they chose not to designate it.

Mr. Jeff Labonté: I'm not sure about the instance you're speaking to, but there's an instance before the board now, the Manitoba-Minnesota transmission project, where there was a choice to designate. The GIC did designate it, and it's being reviewed.

Ms. Linda Duncan: Thank you.

The Chair: It is five minutes to nine. I'd like to give the specialist experts a chance to answer that last question. We're going to take a five-minute suspension, get the answer to that, and then we're going to move right into the voting.

● _____ (Pause) _____ ●

● (2105)

The Chair: We're resuming the meeting.

Mr. Arnold, the answer to your question is, from all of the experts, that there is no conflict. They're all fine. All right?

We're good to go.

Ms. Linda Duncan: What are we doing?

The Chair: We're doing amendment CPC-17. Shall the amendment carry?

Hon. Ed Fast: Come on, Madam Chair.

The Chair: Are you going to call for a recorded vote?

Hon. Ed Fast: Yes, everything's going to be recorded.

The Chair: That's fine. We're on amendment CPC-17. We're good to go.

Hon. Ed Fast: I have a point of order.

The Chair: What's your point of order?

Hon. Ed Fast: My point of order, Madam Chair, is that you are now running roughshod over the committee.

The Chair: No.

Ed—

Hon. Ed Fast: It's probably not you. It's people above you that are telling you to do this.

The Chair: Ed, on a point of order, I'm not forced at all.

Hon. Ed Fast: It's very unfortunate that this would happen—

The Chair: Ed, we had a motion done in March—

Hon. Ed Fast: Yes, it was rammed through by those individuals over there.

The Chair: —that has been on the table, that set today.... We're going to go.

We're on amendment CPC-17.

Ms. Linda Duncan: Amendment CPC-17 is on what page?

The Chair: It's page 355 in the kit.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: Ms. May, there's no discussion. It's just on the table and we're voting.

Ms. Elizabeth May: Very briefly, I need to say this and I'm leaving—10 seconds. This committee passed a motion that says—

The Chair: Elizabeth, the motion has passed.

Ms. Elizabeth May: No, the motion that you passed said I would get a chance to speak to each of my amendments. I'm leaving now, because that's not happening, but under the motion by which I am here, there is an affirmative duty on the committee to give me a chance to speak to each of my amendments.

I recognize that is not happening. There's a conflict between the motions you passed, and you have further eroded my rights.

I don't take it personally, but it needed to be said for the record.

The Chair: Thank you, Elizabeth.

Shall amendment PV-113 carry?

Hon. Ed Fast: We'd like a recorded vote.

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: We're at amendment LIB-100.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're moving to amendment PV-114;

Hon. Ed Fast: We want a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're moving to amendment PV-115. It's a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*]

● (2110)

The Chair: Turning to amendment PV-116, it's a recorded vote.

(Amendment negatived [See *Minutes of Proceedings*]

The Chair: We're now on amendment NDP-77 and, if it is adopted, LIB-101 cannot be moved because there will be a line conflict.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're moving to LIB-101.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

The Chair: We're on NDP-78.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 7; yeas 2 [See *Minutes of Proceedings*])

The Chair: We are now on CPC-18.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We're moving to CPC-19.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We're on CPC-20. It's a big amendment.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We're moving to CPC-21.

Hon. Ed Fast: I'd like a recorded vote.

The Chair: By the way, before you vote, if this is adopted then NDP-79 cannot be moved because there will be a line conflict, and PV-117 will be moot because it's basically taken over with this.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: Now we have NDP-79.

Yes, Mr. Arnold.

Mr. Mel Arnold: On a point of order, Madam Chair, rather than at every vote we ask for a recorded vote, can it simply be determined at this time that every vote will be a recorded vote?

The Chair: I think we talked about that before and the answer was no.

An hon. member: That would be fine by us.

A voice: You'd need unanimous consent.

The Chair: Is there unanimous consent on that?

Some hon. members: Agreed.

The Chair: With unanimous consent, it will be a recorded vote on all of them. You were unanimous on that. Co-operation is wonderful.

If NDP-79 is adopted, PV-117 and LIB-101.1 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we have PV-117. If it's adopted, LIB-101.1 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we're on LIB-101.1.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

● (2115)

The Chair: We are now on NDP-80.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: On LIB-102, we'll have a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We are on PV-118. If PV-118 is adopted, LIB-102.1 cannot be moved because of redundancy.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we're on LIB-102.1.

(Amendment agreed to: yeas 6; nays 2 [See *Minutes of Proceedings*])

The Chair: On PV-119, shall the amendment carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: On to PV-120, we'll have a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: On NDP-81, shall the amendment carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2120)

The Chair: On PV-121, shall the amendment carry?

(Amendment negatived: nays 8; yeas 0 [See *Minutes of Proceedings*])

The Chair: The next one up is CPC-22.

(Amendment negatived: nays 6; yeas 2 [See *Minutes of Proceedings*])

The Chair: On CPC-23, shall the amendment carry?

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: On PV-122, shall the amendment carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: On LIB-103, shall the amendment carry?

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We have a point of order.

● (2125)

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Madam Chair, I've never been in a committee where we haven't had the opportunity to pose questions to officials and—

The Chair: Garnett, we've been at this for weeks.

Mr. Garnett Genuis: I know, but this is a long bill, right?

The Chair: There were opportunities to go longer and to start extra days, but it didn't happen, so now we are in this mode.

Hon. Ed Fast: You did not give us extra days.

Mr. Garnett Genuis: But Madam Chair, some of these amendments have been table dropped. The officials haven't even seen them, so I appreciate that this takes a long time.

The Chair: None of the ones that you're doing right here have had that situation.

Mr. Garnett Genuis: To the point about time, this is an important bill with a lot of content in it. It takes time. I think the time should be proportionate to the length and the magnitude of the changes, not the same for every kind of legislation, regardless of how complex it is.

Therefore, I would like to propose that we have additional meetings where there are officials that are present.

The Chair: Garnett, look at the dates on these. You can see how long they've been in our hands.

Garnett, thank you very much for your comments, but we are in voting. We made this motion back in March. We're not changing the motion.

Mr. Garnett Genuis: I'd like to challenge the chair on that.

Hon. Ed Fast: He's challenged the chair, so we will have a vote.

The Chair: Yes. We'll have a vote.

Mr. Garnett Genuis: Can I speak to that challenge?

The Chair: I thought you just did.

Mr. Garnett Genuis: No, I'm going to make my case for the challenge.

The Chair: What are you challenging?

Mr. Garnett Genuis: I'm challenging your decision that we can't have additional meetings or have a discussion about additional meetings.

The Chair: The committee made a decision and it voted on it, Garnett. It's over.

Hon. Ed Fast: The Liberals made a decision.

The Chair: It's not a challenge anymore that you can bring forward.

Hon. Ed Fast: Were you part of that decision?

The Chair: The motion was brought forward in March. It was voted on and it passed. It's not a chair decision; it was a committee decision. It's done. I am executing the motion that was brought forward and voted on.

Hon. Ed Fast: It was Gerald Butts' decision.

The Chair: Garnett, it's not something that's challengeable.

Mr. Garnett Genuis: I would like to propose a motion to the committee that we adjourn and that we schedule additional meetings to invite officials to actually provide their input on amendments so we can ask questions before we proceed.

The Chair: Garnett, I'm ending the conversation. This is not a point of order. I'm executing a motion. It's a motion that was voted on by committee. I'm executing it as it was adopted.

It's too late.

Mr. Garnett Genuis: I think I can propose that motion. If you don't agree, then I'm challenging that ruling.

Mr. William Amos: I have a point of order.

No motion can be brought up at this stage.

The Chair: Let's just be clear here.

Garnett, you asked to challenge the chair. You can't challenge the chair. I'm executing a motion that was passed by the committee. It's not challengeable. I'm executing what the committee decided.

You can't challenge the chair on that.

Hon. Ed Fast: You're executing what Gerald Butts decided.

Mr. Garnett Genuis: I'm seeking to move a motion.

The Chair: Guys, we're going back to what we were doing.

I'm executing the decision of the committee.

Mr. Garnett Genuis: Am I able to move a motion to...?

The Chair: No, you're not.

Hon. Ed Fast: That's the democratic process of the Liberals.

Mr. Garnett Genuis: I can't even move a motion to suggest we hear from officials?

The Chair: No.

We're in the middle of a voting process that was agreed to by committee.

We're in the middle of a vote.

Mr. Mel Arnold: No, we're not in the middle of a vote.

Mr. Garnett Genuis: You're ruling....

The Chair: We are in a voting process.

Mr. Garnett Genuis: Okay.

Mr. William Amos: We're in between votes.

Mr. Garnett Genuis: Okay, I'd like to raise a question of privilege then.

I think this is a violation of my privileges at this point. As a member of this committee I should be able to move a motion to suggest to the committee that we proceed in a proper fashion. I'm not being allowed to....

● (2130)

Mr. William Amos: Madam Chair, this is out of order. The member can bring this to the House of Commons if he'd like.

Mr. Garnett Genuis: You're right. I can, but this is the proper process, to move it here first. I'm not even being allowed to move a motion to make a suggestion to the committee about us proceeding in a proper way with respect to this legislation, which would involve us actually being able to consult with departmental officials about how we proceed with amendments.

This is a massive and highly consequential piece of legislation. The way the government seems to think that it can rush this through with such limited discussion, with no discussion on these substantive amendments, is I think something that Canadians on all sides of this issue would find totally unpalatable. We're sent here to do the very serious work of actually analyzing and discussing the content of this legislation, yet we're going through this process where you're putting forward amendment after amendment that people barely have time to do anything on, some of which are table dropped with no engagement of the officials. This is unprecedented. This is not what anybody expected or promised.

It doesn't matter how—

Mr. William Amos: Madam Chair, I have a point of order.

This is merely dilatory. He's trying to slow down the process. He has not read the bill.

The Chair: I'm going to take control of the committee.

Garnett has brought forward a question of privilege. It's up to me to decide whether his privileges are being denied. There's a motion that was adopted by committee.

I understand your point. I don't agree with it. We have a motion that was moved by committee. It was not challenged at the time that we moved that motion. I am executing that motion.

Ms. Linda Duncan: Can I just ask...?

The Chair: Linda, no. I'm dealing with Garnett.

Ms. Linda Duncan: We need a qualification. It was passed by the majority of the committee.

The Chair: I'm dealing with Garnett first.

Ms. Linda Duncan: It is not honest to say that the committee passed.

The Chair: I will now put it to committee. I personally do not feel it is an issue, but I'll put it to committee as a question of privilege of committee.

I don't feel there has, but if the committee feels there has been, then we would have to agree to do a report to the House. That's done by a vote.

I hear his complaint, his question of privilege. I'm suggesting I don't believe that there is one, but it's up to the majority of the committee. If you feel that there is, then we would draft a report.

Does the committee feel that there's a breach of privilege?

Ms. Linda Duncan: I'd like to speak to that.

The Chair: Okay.

Linda.

Ms. Linda Duncan: As Ms. May said when she exited, the rules were recently changed in the House to allow non-party-status members to bring amendments to committee. What happens now with the rule is that if it is possible to bring the amendment to committee, you cannot then bring it at the report stage in the House. Therefore, Ms. May cannot participate in this, and therefore, her privileges are being impacted because she is no longer able to speak to her amendments.

The Chair: Ms. May did not bring a question of privilege to the committee.

Ms. Linda Duncan: She didn't bring a question of privilege, but she was pretty clear about it.

The Chair: We're not talking about that right now. We're talking about Garnett's question of privilege, and we are taking a vote. Right now I have five who have said there's no breach of privilege, and we're in a vote. Do you want to—

Hon. Ed Fast: No, no, listen. We're debating a point of privilege here.

The Chair: Yes, we are.

Hon. Ed Fast: It's Mr. Genuis's point of privilege. He is someone who has come to our committee in good faith to address each of the amendments that have been brought forward by each of the parties at this table. Sadly, the Liberals at this table some time ago brought forward a programming motion that sought to cut off our ability to properly understand the amendments that are being brought forward to what is arguably the most substantive bill this committee will face in this Parliament. I am appalled that we have members around this table who allow this charade, this farce, to continue.

We had Ms. May, who came in good faith to this table, presented many amendments and still has a whole bunch of amendments to go. The programming motion allows her to present those here at this table. Why is she not here at the table presenting those amendments? She's entitled to do that. Now that right has been taken away from her. In fact, the rights of the members of this committee have been basically abrogated by the actions of the Liberal majority. This is the tyranny of the majority that we're seeing take place here, and this is coming from instructions from above, from the Prime Minister's Office, from Mr. Butts, through the minister, through Kyle, giving instructions to anyone out there—

Mr. William Amos: I have a point of order, Madam Chair. It's not allowed to reference people who are not sitting at the table. Let's move this to a vote, please.

Hon. Ed Fast: No, this is a point of privilege.

The Chair: I am going to clarify, because I did want to give you some chance to put on the table.... You are talking about another member. You can't raise the point of privilege for another member who has given you a—

Hon. Ed Fast: I am not raising a point of privilege. I'm debating the point of privilege.

The Chair: You were talking about Elizabeth, and she's not here. It's not about her. It's a point of privilege that was raised by Mr. Genuis.

● (2135)

Hon. Ed Fast: This is a point of privilege.

The Chair: And we're just about done.

Hon. Ed Fast: Madam Chair, you don't have the right to say we're done. We are each entitled to have our full say on a point of privilege.

The Chair: If you're going around saying the same thing, I do, but go ahead.

Hon. Ed Fast: Nothing of what I've said has been repeated. Every single amendment that we brought forward and that my colleagues from the NDP and from the Green Party brought forward was brought forward in good faith with a clear understanding that it was going to be dealt with in good faith by the Liberal members at this committee. Here we are now at 9:30 and we will probably run late into the night.

Why? Because we have a chair and a Liberal majority, the tyranny of the majority at this table, who will not agree to add additional days' worth of consideration of at least the amendments themselves.

The Chair: Okay, we're beyond the point.

Ed, I asked—

Hon. Ed Fast: It's disgraceful.

The Chair: No, it's not disgraceful.

Hon. Ed Fast: Yes. Let the record show, Canadians are being defrauded through this process.

The Chair: I asked many, many times to add an extra day, to extend the meetings or start them early, and every single time, I was met with a "no".

Hon. Ed Fast: That's because we have other commitments.

The Chair: I understand that.

Hon. Ed Fast: You should know that.

The Chair: But just as Garnett came to sub in, you could have sent a sub to do it, just as Garnett is coming in and subbing in now for somebody else.

Hon. Ed Fast: You have 180-some members.

The Chair: Okay, Ed, let me finish.

Hon. Ed Fast: We have only 97.

The Chair: Ed, other committees have sat much longer than we have on important bills. If this is one of the most important bills, as you have said repeatedly—

Hon. Ed Fast: Sit longer.

The Chair: —then we should have given the time in the time allotted.

Hon. Ed Fast: Have more days.

The Chair: Every time I asked, it wasn't acceptable.

I have been fair. I've given us time to debate way over what the motion gave. The question of privilege is on the floor. We're in the middle of a vote on whether we accept that question of privilege and whether we do a report.

I don't agree that there is a point of privilege.

Hon. Ed Fast: We're debating a point of privilege. You accepted it. We've spent the last 10 minutes debating a point of privilege.

The Chair: I did not accept a question of privilege.

Hon. Ed Fast: We're debating about a point of privilege raised by my colleague, Mr. Genuis, here at this table.

Am I wrong?

The Chair: You are allowed to explain the situation, which Garnett did.

Hon. Ed Fast: We're debating a point of privilege.

Mr. John Aldag: A vote on the question of privilege has been called.

Hon. Ed Fast: Debate hasn't been exhausted. You can't call—

Mr. John Aldag: Yes, we can.

Hon. Ed Fast: No, you cannot, not on a point of privilege. We can say our piece.

The Chair: I'm going to do a reset button here to be fair, just to make it clear because I haven't been clear.

I am going to rule whether there is a question of privilege. I have tried to explain, as you have brought forward your points, why I'm not agreeing that your privilege is being denied. Only if I were to agree that it was would we do a vote on a report that is going to the House. That's not happening because I don't agree that there's a breach of privilege in this case. I haven't seen you multiple times before, trying to get a chance to be here to talk about the changes that you wanted. That isn't what's happening here, so I'm not accepting the question of privilege.

If you have something different to share with me, I'm open.

Mr. Garnett Genuis: Can I—

The Chair: Wait a minute. Gérard has been trying to say something. Let me hear from him, and then I'll get back to you.

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you, Madam Chair.

First of all, I will try to explain in French because I am a little bit tired, like everybody.

[*Translation*]

Madam Chair, I think it is perfectly normal for people, who come here in good faith, to want to debate important issues properly. As time passes, we start to get a little tired, which is quite normal, but no one here is acting in bad faith.

What do we have here? We are dealing with a very important bill. We were elected to debate issues and the future we envision for our country. Unfortunately, this bill is full of items that deserve to be improved. That is why so many amendments have been introduced. There are 400 amendments.

Madam Chair, I have sat in other parliaments and I do not recall having to vote on a bill for which hundreds of amendments had been moved. Let's be honest, we can hardly do a meaningful and rigorous job when so many amendments are introduced.

This bill is quite impressive. Our party has introduced some 90 amendments, but other parties have introduced more. Whenever we have to explain why a particular amendment has been proposed, we are surprised to see that so many amendments have been proposed by the government party.

I would not say that the bill is a draft, but perhaps 400 amendments have been introduced because it was rushed. Now, the worst thing would be to improve it on the fly. On the contrary, we must take the time we need to analyze it, to examine the arguments and to see whether the amendments are consistent. A precise analysis must be done. That is what we are used to doing and that is why Canadians pay us.

If we are going to look at 400 amendments in a rush, I think my privilege as a parliamentarian is being violated. That is why I raise this point of privilege.

● (2140)

[*English*]

The Chair: It has been noted.

Now it's back to Garnett.

Mr. Garnett Genuis: I think we need to be really clear about where we are process-wise, first of all. Aside from what people may think about the merits or demerits of the point I've raised, we have a process for matters of privilege. I think you as well as the clerk know where I'm going and what I'm going to say.

When a member raises a question of privilege, we may previously have been operating under a particular rubric, which is a question of what programming motions may have been passed, what processes are happening for the votes and amendments, and so on. When you have an issue of privilege raised, that's a separate question. Then the chair rules on the basis of a prima facie case of privilege. If there's that ruling, we then proceed to a debate and then a vote.

I raised the issue. We are now having a debate. We are having that debate because you, Madam Chair, told us that there would then be a vote. In so doing, you ruled that there was a prima facie case. If you had not found a prima facie case, I wouldn't be talking right now. The only reason I'm talking, the only reason we have opened the speakers list at all is on the basis of the question of privilege that I raised. Otherwise—

Mr. William Amos: Madam Chair, on a point of privilege—

The Chair: Garnett—

Mr. Garnett Genuis: —you said there would be a vote—

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): This is dilatory. There is no prima facie case.

Mr. Garnett Genuis: —so that's where we are.

Mr. James Maloney: The motion that was brought and agreed upon by committee—

Mr. Garnett Genuis: Whether or not this committee agrees with a prima facie case—

Mr. James Maloney: Madam Chair, this is pure dilatory tactics.

The Chair: Garnett, I at all times said I did not agree. I misunderstood the advice that I got from the clerk that there would need to be a vote. A vote is not needed, if I rule no, and I've ruled no every time I've gone to say it. You can go back and look at the blues. I've said I do not agree that you have a "question of privilege" case, and therefore, I do not support it.

I misunderstood the clerk when he said I needed to have a vote on whether they wanted to do a report. It was my mistake. I'm going to correct it now. I do not support this question of privilege, so there's no debate. The debate is over now. We've had debate, we've heard your point and I don't support it.

Mr. Garnett Genuis: On a point of order, Madam Chair. I'm not talking about the question of privilege here. I'm talking about a fundamental point of committee process. It is not for the chair to rule on whether or not the point of privilege is a valid point, but merely to rule on the basis of whether there is a prima facie case. You at no point said there wasn't a prima facie case.

Now, whether or not you misunderstood the advice, and certainly it's nothing personal, but you opened a process at the committee—

Mr. James Maloney: Madam Chair, we're—

Mr. Garnett Genuis: You don't have the floor, Mr. Maloney.

Whether or not there—

Mr. James Maloney: I know, but I'm trying to clarify.

Mr. Garnett Genuis: I'll welcome your assistance at a future point. I'm raising a point of order.

The Chair: Hold on, Garnett.

There's a point of order.

Mr. Garnett Genuis: I'm making my point of order and you're allowing him to interrupt my point of order with another point of order.

The Chair: But I don't support your point of order. I'm not supporting that prima facie point of order. I'm not.

Mr. Garnett Genuis: Okay.

The Chair: It's done. We're finished.

Mr. Garnett Genuis: It's not a prima facie point of order. It's a question of a prima facie issue of privilege.

The Chair: I don't support your prima facie point of privilege.

Mr. Garnett Genuis: This is democracy. The rules of democracy are important and the rules of democracy are not being followed at this committee. There either was a prima facie case of privilege or there wasn't.

Mr. James Maloney: Madam Chair, we are going way further afield of the original point here, and I think we need to get back to the point at hand.

Mr. Garnett Genuis: Mr. Maloney, where you think we should be is not the point.

Mr. James Maloney: And if you'd allow me to speak, I will clarify.

Mr. Garnett Genuis: The point is the rules.

The Chair: Okay, just let me—

Mr. Garnett Genuis: We are governed by rules in this body, and we have to respect those rules.

Whether you like it or not, the chair opened debate on a prima facie—

Mr. James Maloney: And if you will yield the floor for a moment, I will discuss those rules.

Mr. Garnett Genuis: —case of privilege when she said there would be a vote. You can have the floor once we proceed with the vote.

● (2145)

The Chair: Mr. Maloney, we can't interrupt him at the moment. Unless he's going around in circles—and I'm very mindful that we're getting there—you can't interrupt him.

Let's just wrap it up, if you don't mind.

Hon. Ed Fast: Wrap up what?

The Chair: His point. His point of order.

Mr. James Maloney: Madam Chair, can I just make one more point?

Hon. Ed Fast: The point of privilege...?

The Chair: No, he was—

Mr. James Maloney: The member opposite just said he is not speaking to his question of privilege anymore, which is the subject matter of the discussion at this table right now. By his own admission I think we should move on.

Mr. Garnett Genuis: I'm speaking to a point of order. Are we speaking to a point of privilege?

The Chair: No. You were speaking on a point of order on your question of privilege.

Mr. Garnett Genuis: Yes. The very fact there is a discussion on a point of privilege means that a prima facie case has been found—

The Chair: No, this is—

Mr. Garnett Genuis: —in this case. You just can't have it both ways. You can't have a debate while not accepting a prima facie case of privilege. Those are the rules to how a committee works. Not only is the whole process by which this legislation is being pushed through an assault on democracy, but now you're "unruling" a previous ruling on a prima facie case of privilege, which is itself an issue of privilege.

The Chair: Okay, Garnett, you're wrapping around a knot here. I did not rule that you had a case. I am not accepting your point of privilege.

Hon. Ed Fast: Okay, so justify your ruling.

The Chair: There's a lot that I've already gone through and I'm not going to spend the time to go over it again. I've already gone through several times why I'm not accepting it. I'm not going around and extending this. We're all going to be here very late. All you're doing is extending this, and I don't think that's appropriate based on how we have gone forward so far.

It is not a question of privilege. I'm not accepting it. There's no ruling here for anybody to vote on. It was my mistake. I'm accepting that. We're done.

Hon. Ed Fast: Madam Chair, you can't after the fact—

Mr. William Amos: Call the vote on CPC-24, please.

Hon. Ed Fast: —say that the ruling you made—

The Chair: Ed, what are you raising right now?

Hon. Ed Fast: The point of privilege, you said it was a mistake.

The Chair: No, I've ruled it's over.

Hon. Ed Fast: You ruled what was over?

The Chair: There is no question of privilege. I've made a decision —

Hon. Ed Fast: You said that you made a mistake.

The Chair: Yes, by asking the committee to vote. He implied that I then implied there was a point of privilege, which there was not, and I never accepted that there was.

Hon. Ed Fast: We were debating the point of privilege for about 10 minutes—

The Chair: Ed, do I need to suspend?

Hon. Ed Fast: Yes, go ahead. You have every power you want.

The Chair: I'm going to suspend—for five minutes.

■

——————————— (Pause) ———————————

■

● (2150)

The Chair: We're going to resume.

Because we haven't had a question of privilege in committee before, I'm going to read this out so everybody knows what I'm doing and why.

> The Chair of a committee does not have the power to rule on questions of privilege; only the Speaker has that power. If a Member wishes to raise a question of privilege during a committee meeting or an incident arises in connection with the committee's proceedings that may constitute a breach of privilege, the committee Chair allows the Member to explain the situation. The Chair then determines whether the question raised in fact relates to parliamentary privilege. If the Chair determines that the question does relate to parliamentary privilege, the committee may then consider presenting a report on the question to the House.

I allowed the member to explain his position on his privilege that was being impacted, and I am not accepting that.

Hon. Ed Fast: Based on what?

The Chair: Based on the fact that it was a motion that the committee moved in March on how to proceed. I've asked all the members of this committee numerous times to spend more time on this particular bill so that we could have more time to discuss it, and we did that way back. I have been asking this all along. We have been studying this bill now for almost three months.

Hon. Ed Fast: It was way too short.

The Chair: I'm saying that I've asked and been denied that opportunity to add hours, start earlier, add days, so I am not accepting that privilege has been denied, and we're going to move on.

An hon. member: [*Inaudible—Editor*]

The Chair: Sorry, there's no motion. We're moving on. I've made the determination.

Mr. William Amos: Madam Chair, can we move CPC-24 to a vote?

Thank you.

The Chair: Okay.

Linda, no, we're not doing debate. There's no debate.

Ms. Linda Duncan: I have the right to bring forward a motion.

● (2155)

The Chair: There's no motion. There's no time for a motion. That's not what's happening now.

Hon. Ed Fast: Who says there's no time for a motion?

Mr. William Amos: Madam Chair, CPC-24.

The Chair: We are in clause-by-clause voting. There's no time to bring a motion.

Hon. Ed Fast: She has a motion, though.

Ms. Linda Duncan: Madam Chair, given what you have said, which is only partly correct, you did not give us the alternative of having additional meetings going forward.

The Chair: Putting all questions aside, we're going on with our work. We are in the middle of a clause. There's no putting a motion on the floor.

Let's get back to the work we were doing.

Ms. Linda Duncan: The committee members are not happy with what's proceeding. Let me put forward the motion. The motion would be, "Notwithstanding—

The Chair: No.

Ms. Linda Duncan: —the previous motions"—

Mr. William Amos: Madam Chair, this is out of order.

The Chair: I'm sorry, you're out of order, and we're going back to the work that we're in the middle of in committee.

Ms. Linda Duncan: Why am I out of order?

The Chair: Because you cannot put a motion on the floor in the middle of clause-by-clause.

Ms. Linda Duncan: Says who?

The Chair: The motion says—

Ms. Linda Duncan: There's nothing in our previous motion that is preventing me from bringing forward another motion.

The Chair: Everything has been put. We're moving to vote, with no discussion. There are no clauses, no amendments; we're moving to vote.

Ms. Linda Duncan: You're not allowing me to bring forward a motion with an alternative procedure.

Some hon. members: Oh, oh!

The Chair: I am enacting the committee's motion. Let's get back to work.

Ms. Linda Duncan: There was one motion. I'd like to propose an alternative.

The Chair: We are at CPC-24.

Mr. Garnett Genuis: I have a point of order.

The Chair: What's your point of order?

Mr. Garnett Genuis: Is there anything in the preceding motion that specifically precludes members from raising motions after a certain hour?

The Chair: Yes, after nine o'clock.

Ms. Linda Duncan: No, there isn't.

Mr. Garnett Genuis: No, there's nothing.

Ms. Linda Duncan: You could have put it in there, but—

Mr. Garnett Genuis: There's nothing in the text of the motion that says members cannot move motions.

The Chair: All right, let me read it:

> should the Committee not complete its clause-by-clause consideration of the Bill by 9:00 p.m. on Tuesday...all remaining amendments submitted to the Committee shall be deemed moved, the Chair shall put the question, forthwith and successively, without further debate on all remaining clauses and proposed amendments, as well as each and every question necessary to dispose of clause-by-clause consideration of the Bill, as well as all questions necessary to report the Bill to the House...and order the Chair to report the Bill to the House as soon as possible.

Ms. Linda Duncan: It doesn't preclude.... I can say, notwithstanding that motion, I wish to move that we continue the review of the bill.

The Chair: All the questions are moved.

Ms. Linda Duncan: We have a meeting on Thursday. Why can't we continue review of the bill on Thursday?

The Chair: All the questions are moved, Linda. We're moving. We are in the middle of the process.

Mr. Garnett Genuis: Madam Chair, further to my point of order, let's be clear. You read out the motion.

Mr. William Amos: Madam Chair, Mr. Genuis is out of order.

The Chair: I know.

Mr. Garnett Genuis: The motion does not say that further motions cannot be moved.

Mr. James Maloney: Madam Chair, with all due respect—

Mr. Garnett Genuis: What the motion says.... Go ahead and consult the clerk.

The Chair: We're just reviewing the book, because we're trying to be technically accurate. There is no opportunity to make a motion. We are moving through the motion that we're in the middle of, with no debate. They're all put and moved. We are in the process. We cannot do a motion. I heard you..."point of order". It's not relevant.

Mr. Garnett Genuis: But even on the basis of that interpretation, nothing precludes amendments to those motions.

The Chair: There's no further debate.

Mr. William Amos: Let's move to a vote on CPC-24.

The Chair: Garnett, it's over. We're moving back into the motion that we're supposed to be doing. We are on CPC-24.

Mr. William Amos: I'd like a recorded vote, please.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: Moving along, CPC-25 was already dealt with by CPC-10.

We're on CPC-26.

● (2200)

Mr. William Amos: I'd like a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We are now on LIB-104.

(Amendment agreed to: yeas 6 ; nays 0 [See *Minutes of Proceedings*])

The Chair: Now we're going to do LIB-105.

(Amendment agreed to: yeas 5; nays 3 [See *Minutes of Proceedings*])

The Chair: We're now onto PV-123.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We have PV-123.1.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We have NDP-82. If adopted, LIB-106 cannot be moved, because there's a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2205)

The Chair: Now we have LIB-106.

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

Mr. William Amos: Madam Chair, I have a point of order. I believe that without interruption, as the motion indicates, ought to get us past the editorials after each vote.

Mr. Garnett Genuis: I have a point of order. "Point of order" and "interruption" have the same definition.

The Chair: Carrying on, now we have LIB-107, despite the banter.

(Amendment agreed to: yeas 5; nays 3 [See *Minutes of Proceedings*])

Hon. Ed Fast: Can somebody explain? Where are the officials?

The Chair: Listen, May 1.... That's a lot of time.

Hon. Ed Fast: Where are the officials?

The Chair: It didn't get dropped today.

Hon. Ed Fast: Where are the officials?

An hon. member: I'd like to seek the analysts' consent—

The Chair: Moving on to LIB-108. This one also came in on May 1.

(Amendment agreed to: yeas 5; nays 3 [See *Minutes of Proceedings*])

The Chair: Amendments CPC-29 and CPC-30 are the ones that had a lot involved in them. They were dealt with under CPC-10, so we're now moving to PV-124.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Amendments CPC-31, CPC-32, CPC-33, and CPC-34 were also dealt with under CPC-10. Now we're on CPC-35.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We're now on CPC-36.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We're on CPC-37.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We are now moving to CPC-38, again from Mrs. Stubbs.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

● (2210)

The Chair: We're moving on to CPC-39. Again, it's from Mrs. Stubbs.

Do you have a point of order?

Mr. Garnett Genuis: I'd like to seek unanimous consent for the following motion.

I move that, notwithstanding the motion passed earlier—

The Chair: No. We've already been through—no motions can be answered on the floor—

Mr. Garnett Genuis: But it's a unanimous consent motion, Madam Chair.

The Chair: We went through this already. You can't move a motion—

Mr. Garnett Genuis: Actually, after nine o'clock, we passed a unanimous consent motion on recorded votes, so we've done it before. After nine o'clock, we passed a unanimous consent motion permitting—

The Chair: No, not on a motion to bring forward a motion. It's not going to be allowed.

Mr. Garnett Genuis: I guess what I'm wondering is if unanimous consent were given—

The Chair: On a motion, it's a different issue. We did unanimous consent on a way to vote, not on bringing forward a new motion, so thank you—

Mr. Garnett Genuis: Right, but anything you do has to be done by a motion, so if it was done after nine o'clock, even if it was a procedural issue, it was still a motion. The motion I'm seeking unanimous consent on is also a procedural issue.

The Chair: I'm not allowing a motion. We've already been through this, and we're not doing it again. Okay? We're moving on.

Mr. William Amos: Madam Chair, this is out of order. He does not have unanimous consent. Please move to the next vote.

The Chair: I understand. I'm pushing that point. I will cut the microphone off in a minute because we're going to go—

Mr. William Amos: Listening is not part of this exercise here.

The Chair: I know. Let's keep going.

Garnett, we're not entertaining any motions. All right?

Mr. Garnett Genuis: Then the unanimous consent motion that passed earlier was not valid. I'm just looking for a consistent standard here. After nine o'clock, either you allow unanimous consent motions or you don't, because you already did allow one unanimous consent motion after nine o'clock, which was on the process by which we conduct votes.

The Chair: Are you bringing forward some sort of process motion here?

● (2215)

Mr. Garnett Genuis: Yes. I'd like to seek unanimous consent for the following motion.

I move that, notwithstanding the motion that passed earlier, the mover of this amendment be given 60 seconds to explain the motion.

I'm seeking unanimous consent for that motion.

The Chair: No, there is no consent. Thank you.

Mr. Garnett Genuis: Okay.

The Chair: We're on CPC-39.

(Amendment negatived: nays 6; yeas 4 [See *Minutes of Proceedings*])

The Chair: We're moving on to CPC-40.

Mr. Garnett Genuis: I move that, notwithstanding the motion that passed earlier, the mover of this amendment be given 30 seconds to explain the motion.

The Chair: Garnett, I'm not entertaining any more motions from the floor, so let's just move on to what we're in the process of doing here. We agreed to no more motions. All right?

We're moving on to CPC-40.

Mr. Garnett Genuis: I'd like to challenge that, then, because it's not consistent. We either allow motions after nine o'clock or we don't. You allowed a unanimous consent motion before, so I'm going to challenge the chair on that.

Hon. Ed Fast: Who's the guy walking behind you there, back and forth, passing messages? Is that Gerald Butts?

The Chair: For consistency—because it is about consistency—I do believe that we move that unanimous...after nine o'clock. If you want to spend the night continuously bringing forward and slowing the work down, then we will just ask for unanimous and if you don't get it, you don't get it.

Mr. Garnett Genuis: Thank you, Madam Chair.

The Chair: It's not to do the motion, but to move a motion. Do you have unanimous consent to move a motion? No. Thank you very much.

Moving on, we've got CPC-40.

(Amendment negatived: nays 6; yeas 4 [See *Minutes of Proceedings*])

The Chair: We're now on to CPC-41.

● (2220)

Mr. Garnett Genuis: I have a point of order, Madam Chair.

I'm seeking unanimous consent of the committee for the following motion, that notwithstanding the motion that passed earlier, the mover of this amendment be given 60 seconds to explain the motion.

The Chair: No. You didn't get unanimous consent. Thank you, Garnett.

We are on CPC-41.

The unanimous consent he was asking for was to move a motion, and the answer was no. We're moving on to CPC-41.

Hon. Ed Fast: Who said?

The Chair: I heard "no" from over here.

Hon. Ed Fast: Can't we have a vote on it?

The Chair: No. The vote was unanimous. Can I move a motion? No.

We're on CPC-41.

Mr. William Amos: I would like a recorded vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: CPC-42 was dealt with under CPC-10, and so now we're on LIB-109.

(Amendment agreed to: yeas 5; nays 3 [See *Minutes of Proceedings*])

The Chair: We're on LIB-110.

Mr. Garnett Genuis: I have a point of order.

The Chair: Garnett, what's your point of order?

Mr. Garnett Genuis: I'd like to seek unanimous consent for the following motion.

Mr. William Amos: No.

Mr. Garnett Genuis: "That notwithstanding the motion"—

The Chair: Garnett, you just asked if you could have unanimous consent to move a motion and the answer is no, so it's done.

Mr. Garnett Genuis: No, I asked for unanimous consent "for the following motion". I didn't read the motion.

The Chair: Yes, but it's a no.

Hon. Ed Fast: You have to let him read the motion.

The Chair: No, I don't.

Mr. William Amos: Madam Chair, please call the vote.

The Chair: Unanimity is required to move a motion, and the answer is no, so we're moving on.

Mr. Garnett Genuis: You can't give 60 seconds to allow the member to actually explain the motion?

The Chair: Garnett, no. It's not happening. Thank you.

● (2225)

Mr. Garnett Genuis: It's a big loss that we can't even have a 60-second explanation. Frankly, we'd move much faster if we had brief explanations in each case.

The Chair: You asked for unanimous consent to move a motion, and the unanimous consent was not granted, so I'm sorry, we can't hear it. Thank you.

Moving on to LIB-110, we'll have a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're on to PV-125. If adopted, NDP-83 and LIB-111 cannot be moved, due to a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now moving on to PV-126.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're having a recorded vote on NDP-83. If adopted, LIB-111 cannot be moved because of a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are now on LIB-111.

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

● (2230)

The Chair: We are on CPC-43.

(Amendment negatived: nays, 6; yeas 2 [*See Minutes of Proceedings*])

The Chair: We're now on CPC-44.

(Amendment negatived: nays, 5; yeas 3 [*See Minutes of Proceedings*])

Mr. William Amos: Madam Chair, I would like a recorded vote for the next one please.

The Chair: On LIB-112, we'll have a recorded vote.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We are now on LIB-113.

(Amendment agreed to: yeas 5; nays 3 [See *Minutes of Proceedings*])

The Chair: We are moving to LIB-114.

(Amendment agreed to: yeas 5; nays 3 [See *Minutes of Proceedings*])

The Chair: NDP-84 came in on May 1. I gave everybody time to ask their questions, and that's why I did that, so let's move on. On NDP-84, we'll have a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2235)

Mr. Garnett Genuis: Could we get the results announced at the end of every vote?

The Chair: No, it's not necessary.

Mr. Garnett Genuis: I think people who are watching—

The Chair: We'll give results at the end.

Mr. William Amos: Madam Chair, call the vote, please.

The Chair: We are on LIB-115.

Mr. William Amos: I'd like a recorded vote on LIB-115, please.

The Chair: Garnett, if you guys paid attention, you wouldn't need to have it given to you at the end because you would know what everybody was voting.

It will be there at the end. Don't worry.

(Amendment agreed to: yeas 5 ; nays 4 [See *Minutes of Proceedings*])

The Chair: Now, we're doing CPC-45.

A voice: We need a new chair.

● (2240)

Mr. William Amos: Madam Chair, move the vote.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: We are now moving to CPC-46.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

Mr. William Amos: Madam Chair, call the vote, please.

The Chair: Do you have a point of order?

Hon. Ed Fast: Yes. I have a question. I noticed the chair of the finance committee at this meeting.

The Chair: He's gone.

Hon. Ed Fast: I understood that maybe there was a finance committee meeting here last night.

The Chair: We are on LIB-116.

Hon. Ed Fast: Do we have to move out?

The Chair: No, we're all good. We've booked for two days, which it seems we might need based on the progress we're making.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

(Clause 10 as amended agreed to: yeas 5; nays 4)

● (2245)

The Chair: We are now voting on clause 11.

Mr. Garnett Genuis: I certainly wasn't prepared for what I'm experiencing tonight. I can't be faulted for that, surely.

Madam Chair, I did speak to this in the House and I am familiar with the details of the bill but I had to remind myself which clause is which.

Ms. Linda Duncan: I need to ask about the transition period. I am troubled that we can't get the answer to that. If there is transition how do we know? Is there going to be a new NEB or there won't be a new NEB?

The Chair: Linda, I'm not going to debate it. This has not changed and you've had this now for three months. There were lots of opportunities to discuss this with experts.

(Clause 11 agreed to: yeas 5; nays 3)

(Clause 12 agreed to: yeas 5; nays 3)

(Clause 13 agreed to: yeas 6; nays 3)

(Clause 14 agreed to: yeas 5; nays 4)

(Clause 15 agreed to: yeas 6; nays 3)

(Clause 16 agreed to: yeas 6; nays 3)

● (2250)

(Clause 17 agreed to [See *Minutes of Proceedings*])

(Clause 18 negatived: nays 5; yeas 4)

(Clause 19 agreed to: yeas 6; nays 3)

(Clause 20 agreed to: yeas 6; nays 3)

(Clause 21 agreed to: yeas 6; nays 3)

(Clause 22 agreed to: yeas 6; nays 3)

(Clause 23 agreed to: yeas 6; nays 3)

(Clause 24 agreed to: yeas 6; nays 3)

(Clause 25 agreed to: yeas 6; nays 3)

● (2255)

(Clause 26 agreed to: yeas 4; nays 4)

(Clause 27 agreed to: yeas 5; nays 4)

(Clause 28 agreed to: yeas 6; nays 3)

(Clause 29 agreed to: yeas 6; nays 3)

(Clause 30 agreed to: yeas 6; nays 3)

(Clause 31 agreed to: yeas 6; nays 3)

(Clause 32 agreed to: yeas 6; nays 3)

(Clause 33 agreed to: yeas 6; nays 2])

● (2300)

(Clause 34 agreed to: yeas 5; nays 2)

(Clause 35 agreed to: yeas 5; nays 2)

(Clause 36 agreed to: yeas 5; nays 2)

● (2305)

Hon. Ed Fast: Can we suspend for five minutes? We all need a break.

The Chair: We'll suspend for five minutes.

● _____ (Pause) _____

●

● (2315)

The Chair: We are back in session.

We're now doing clause 37.

(Clause 37 agreed to: yeas 6 ; nays 2)

Mr. Garnett Genuis: I have a point of order.

Both the new standing orders that were approved to deal with the membership of parliamentary secretaries on committees, standing orders 105 and 114, speak to the fact that parliamentary secretaries can join committees as ex officio members but they don't join as voting members. I think you'll find, on that basis, that the clause was defeated because the parliamentary secretaries are non-voting, not voting members of the committee.

The Chair: My understanding is that the parliamentary secretary for this committee is not here. We have someone who is a parliamentary secretary but in this case is acting as an MP and standing in as an MP. She's not standing in, nor is Matt. So they're not acting as parliamentary secretaries for the committee.

Mr. Garnett Genuis: Just to clarify, though, the new standing order 114 reads as follows:

> Substitutions for Parliamentary Secretaries
>
> In relation to Parliamentary Secretaries named pursuant to Standing Order 104(5), the Chief Government Whip may effect a substitution of one Parliamentary Secretary for another by filing notice thereof with the clerk of the committee and such a substitution shall be effective immediately when it is received by the clerk of the committee.

The Chair: That's not relevant here. That isn't relevant to what's happened here. They're not substituting for a parliamentary secretary. They're substituting for an MP sitting at the table.

Mr. Garnett Genuis: I don't agree with that understanding of the rules.

> A Parliamentary Secretary named as a non-voting member of a committee pursuant to Standing Order 104(5) shall not be eligible to act as a substitute for a member of that committee.

The Chair: Garnett, thank you for the lesson but it's not relevant here.

Mr. Garnett Genuis: Have either of these parliamentary secretaries ever substituted as a non-voting member of this committee?

The Chair: No.

Thank you, Garnett, but it doesn't apply here. They're not standing in for parliamentary secretaries. They're sitting in as representative for the MPs.

I'm moving on to the vote.

(Clause 38 agreed to [See *Minutes of Proceedings*])

The Chair: Do you have a point of order?

● (2320)

Ms. Rachael Harder (Lethbridge, CPC): Sorry, I'm just confused as to why my voice wasn't counted in that vote.

The Chair: You need to come prepared. We were in the middle of voting on the clause and you took too long.

Ms. Rachael Harder: I'm sorry. In going from a standing position to a sitting position, is there somehow that I wasn't prepared?

The Chair: No, you were reading what we were doing. You weren't ready to vote and you weren't quite ready to take the seat. We'll move on and we'll give you the chance to do clause 39, okay?

Ms. Rachael Harder: That's generous of you. Thank you, Chair.

(Clause 39 agreed to: yeas 6; nays 3)

(Clause 40 agreed to: yeas 6; nays 3)

(Clause 41 agreed to: yeas 6; nays 3)

(Clause 42 agreed to: yeas 6; nays 3)

The Chair: We're on to new clauses, which are 42.1 and 42.2. We're doing proposed amendment LIB-117.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

(Clause 43 agreed to: yeas 6; nays 3)

● (2325)

(Clause 44 agreed to: yeas 6; nays 3)

(Clause 45 agreed to: yeas 6; nays 3)

(Clause 46 agreed to: yeas 6; nays 3)

(On clause 47)

The Chair: On clause 47, there's amendment NDP-85.

By the way, if adopted, PV-127 cannot be moved because of a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're moving to PV-127, and if it's adopted, PV-128 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 7; yeas 2 [See *Minutes of Proceedings*])

The Chair: Now we move to PV-128.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are on NDP-86.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: LIB-118 is withdrawn, so we are now on PV-129.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2330)

The Chair: We are on LIB-119.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We are now moving on to amendment PV-130.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

(Clause 47 as amended agreed to: yeas 6; nays 3)

(On clause 48)

The Chair: On clause 48, if PV-131 is adopted, NDP-87 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We've moving on to NDP-87.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are on NDP-88.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are on PV-132.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2335)

(Clause 48 agreed to: yeas 6; nays 3)

(On clause 49)

The Chair: We are on NDP-89.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're moving on to NDP-90.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are on NDP-91. If it is adopted, PV-133 cannot be moved; it's a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are on PV-133. If it is adopted, NDP-92 cannot be moved as there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are on LIB-119.1, and the vote will apply to LIB-119.2, as it's consequential.

Mr. Garnett Genuis: Were these amendments distributed to the new members?

The Chair: Well, no, they'll be in the package.

Mr. Garnett Genuis: I'm subbing for someone else and I don't have them immediately in front of me. Is it not possible for the clerk to just send around a table-dropped amendment so we can see what we're voting on?

● (2340)

The Chair: He did send them around. They were around.

Were you working off the other member's package or your own personal one?

Mr. Garnett Genuis: I have a book that was the pre-existing material, and then I have a stack here. What was the number? Let me see if I can find it.

The Chair: It's right there. You have it.

Mr. Garnett Genuis: Okay, this is it. So these were table-dropped and we have no record of the opinions of the officials on these whatsoever.

The Chair: Yes, we do. The officials were fine with all of them. They were asked was there any conflict, issues, or concerns, and the answers were no.

Mr. Garnett Genuis: What we were told by the officials before they left, I think, is that they hadn't even seen many of the table-dropped amendments.

The Chair: No, we asked them to review them before they left, which they did, and they gave me the answer, all three of them, that they were all fine, and that there were no conflicts.

Mr. Garnett Genuis: Was that on the record?

The Chair: Yes. I gave that information when we started up the session again at nine o'clock.

We're on LIB-119.1.

Mr. Garnett Genuis: I would like to move a unanimous consent motion. I'd like to seek the consent of the committee—

The Chair: You don't have consent, so we'll move on.

Mr. Garnett Genuis: —that Mr. Aldag be given 60 seconds to defend his motion.

The Chair: We're moving on to LIB-119.1, and the ruling will be that the vote will apply to LIB-119.2.

You did not get unanimous consent, so we're moving on. Thank you.

An hon. member: It would be nice to know why—

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We are now on NDP-92.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now moving on to NDP-93. If adopted, PV-134 and NDP-94 cannot be moved, as there will be a line conflict.

Ms. Rachael Harder: I have a point of order.

Mr. William Amos: No.

The Chair: What's your point of order?

Ms. Rachael Harder: First off, my point of order is that the members opposite have no right to say "no" to me when my point of order has to with the chair, and this is your—

The Chair: Okay, Rachael. I am listening to you.

Ms. Rachael Harder: Madam Chair, this is your meeting, and it's yours to conduct appropriately.

● (2345)

The Chair: And I'm listening.

Ms. Rachael Harder: Thank you. I appreciate that.

Before me, it goes from NDP-92 to LIB-119.2. We're skipping over that and going to NDP-93. I'd like to know why that is.

The Chair: When we were on LIB-119.1, I mentioned that the vote would apply to LIB-119.2 because that's the consequential amendment; they go together. I mentioned that when we were voting. That's why that one has been done already.

Ms. Rachael Harder: Thank you.

Mr. John Aldag: Just for the record, I wasn't saying "no" to anything other than the vote that was called. I was registering my vote as a "no", as was my colleague Will Amos, who is second. We're in the middle of a vote.

The Chair: That's fair enough. Thanks for the clarification.

Let's move on to NDP-93. We're in the middle of a vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We are now on PV-134. If adopted, NDP-94 and LIB-120 cannot be moved because there will be a line conflict.

When I make the rulings it's important to listen. If you don't hear it that's why we get confused.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on to NDP-94.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now moving to LIB-120.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're now moving on to LIB-120.01. That's one of the ones that came in today.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We're now moving on to PV-135.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2350)

(Clause 49 as amended agreed to: yeas 6; nays 3)

(Clause 50 agreed to: yeas 6; nays 3)

(Clause 51 agreed to: yeas 6; nays 3)

(Clause 52 agreed to: yeas 6; nays 3)

(On clause 53)

The Chair: We're now on clause 53. We're looking at NDP-95. Shall the amendment carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

(Clause 53 agreed to: yeas 5; nays 4)

(On clause 54)

The Chair: We're now on clause 54 and we're looking at PV-136. Shall the amendment carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (2355)

The Chair: We have amendment LIB-120.1.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

(Clause 54 as amended agreed to: yeas 6; nays 3)

(Clause 55 agreed to: yeas 6; nays 3)

(Clause 56 agreed to: yeas 6; nays 3)

(On clause 57)

The Chair: We'll start with amendment NDP-96. If adopted, PV-137 and LIB-121 cannot be moved, because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Shall amendment PV-137 carry?

(Amendment negatived: nays 7; yeas 2 [See *Minutes of Proceedings*])

The Chair: We're now doing LIB-121.

Mr. William Amos: That's been withdrawn. We'll move to NDP-97.

The Chair: Shall NDP-97 carry?

(Amendment negatived: nays 6; yeas 2 [See *Minutes of Proceedings*])

The Chair: Shall PV-138 carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

(Clause 57 agreed to: yeas 6; nays 3)

(On clause 58)

The Chair: We're now on clause 58, and we're looking at amendment LIB-122. The vote will apply to LIB-123, LIB-124, and LIB-127, which are consequential amendments. If adopted, PV-139 cannot be moved, because it will be moot.

(Amendment agreed to: yeas 6 ; nays 3 [See *Minutes of Proceedings*])

● (0000)

The Chair: We are now on LIB-125. The vote will apply to LIB-126 and LIB-126.1, which are consequential ones.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: We are now on PV-140.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

(Clause 58 as amended agreed to: yeas 6; nays 3)

(Clause 59 agreed to: yeas 6; nays 3)

(On clause 60)

The Chair: We're moving into clause 60. Do people need a break? No.

We are looking at PV-141. If adopted, PV-142 and NDP-98 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: If PV-142 is adopted, NDP-98 cannot be moved because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're on to now NDP-98.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

(Clause 60 agreed to: yeas 6; nays 3)

(On clause 61)

The Chair: Now we're on to LIB-128.

● (0005)

(Amendment agreed to: yeas 5; nays 4 [See *Minutes of Proceedings*])

The Chair: We're now doing LIB-129.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

(Clause 61 as amended agreed to: yeas 7; nays 3)

(On clause 62)

The Chair: Shall PV-143 carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

(Clause 62 agreed to: yeas 6; nays 3)

(Clause 63 agreed to: yeas 6; nays 3)

(Clause 64 agreed to: yeas 6; nays 3)

(Clause 65 agreed to: yeas 6; nays 3)

(Clause 66 agreed to: yeas 6; nays 3)

● (0010)

(Clause 67 agreed to: yeas 6; nays 3)

The Chair: Do I have the agreement of the committee to move clauses 68 through 127 together?

Some hon. members: Agreed.

(Clauses 68 to 127 inclusive agreed to: yeas 6; nays 3)

(On clause 128)

The Chair: We have LIB-130.

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

(Clause 128 as amended agreed to: yeas 6; nays 3)

The Chair: Do I have agreement from the committee to move clauses 129 to 196 together?

Some hon. members: Agreed.

(Clauses 129 to 196 inclusive agreed to: yeas 6; nays 3)

● (0015)

The Chair: We are on the schedule.

(Schedule agreed to: yeas 6; nays 3)

The Chair: We're now on the preamble. We have PV-144.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Shall NDP-99 carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Shall LIB-131 carry?

(Amendment agreed to: yeas 6; nays 3 [See *Minutes of Proceedings*])

The Chair: Shall CPC-47 carry?

(Amendment negatived: nays 7; yeas 2 [See *Minutes of Proceedings*])

(Preamble as amended agreed to: yeas 6; nays 3)

● (0020)

Now we're on the title.

(Title agreed to: yeas 6; nays 3)

The Chair: Shall the bill as amended carry?

(Bill C-69 as amended agreed to: yeas 5; nays 4)

The Chair: Shall the chair report the bill as amended to the House?

(Reporting of the bill to the House agreed to: yeas 6; nays 3)

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

(Reprinting of the bill agreed to: yeas 6; nays 3)

The Chair: Thank you very much. We have completed the bill.

Before I hit the gavel, I just want to thank all the staff up here at the front who have been helping to keep me organized, and all the staff in the back, who have been doing all the work for the MPs. Thank you very much to all of you, and to all of those in the back who are hanging in there to help us.

Also, thank you to the MPs. I know it's been a very gruelling process, but we have gotten through it, a lot of hard work was done, and we have definitely improved the bill significantly.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: http://www.ourcommons.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : http://www.noscommunes.ca